



**1995**

# ***Illinois Register***

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**Rules of Governmental Agencies**

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**Editor's Note:** The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April	14, 1995 - Issue 15: Through	March	31, 1995
July	14, 1995 - Issue 28: Through	June	30, 1995
October	15, 1995 - Issue 37: Through	September	30, 1995
January	12, 1996 - Issue 2: Through	December	31, 1995 (Annual)



## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 1995

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 20, 1994	Dec. 27, 1994	1	Jan. 6, 1995	June 27, 1995	July 3, 1995	28	July 14, 1995
Dec. 27, 1994	Jan. 3, 1995	2	Jan. 13, 1995	July 3, 1995	July 11, 1995	29	July 21, 1995
Jan. 3, 1995	Jan. 10, 1995	3	Jan. 20, 1995	July 11, 1995	July 18, 1995	30	July 28, 1995
Jan. 10, 1995	Jan. 17, 1995	4	Jan. 27, 1995	July 18, 1995	July 25, 1995	31	Aug. 4, 1995
Jan. 17, 1995	Jan. 24, 1995	5	Feb. 3, 1995	July 25, 1995	Aug. 1, 1995	32	Aug. 11, 1995
Jan. 24, 1995	Jan. 31, 1995	6	Feb. 10, 1995	Aug. 1, 1995	Aug. 8, 1995	33	Aug. 18, 1995
Jan. 31, 1995	Feb. 7, 1995	7	Feb. 17, 1995	Aug. 8, 1995	Aug. 15, 1995	34	Aug. 25, 1995
Feb. 7, 1995	Feb. 14, 1995	8	Feb. 24, 1995	Aug. 15, 1995	Aug. 22, 1995	35	Sept. 1, 1995
Feb. 14, 1995	Feb. 21, 1995	9	Mar. 3, 1995	Aug. 22, 1995	Aug. 29, 1995	36	Sept. 8, 1995
Feb. 21, 1995	Feb. 28, 1995	10	Mar. 10, 1995	Aug. 29, 1995	Sept. 5, 1995	37	Sept. 15, 1995
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Mar. 7, 1995	Mar. 14, 1995	12	Mar. 24, 1995	Sept. 12, 1995	Sept. 19, 1995	39	Sept. 29, 1995
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Mar. 21, 1995	Mar. 28, 1995	14	Apr. 7, 1995	Sept. 26, 1995	Oct. 3, 1995	41	Oct. 13, 1995
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Apr. 18, 1995	Apr. 25, 1995	18	May 5, 1995	Oct. 24, 1995	Oct. 31, 1995	45	Nov. 13, 1995 (Mon.)
Apr. 25, 1995	May 2, 1995	19	May 12, 1995	Oct. 31, 1995	Nov. 7, 1995	46	Nov. 17, 1995
May 2, 1995	May 9, 1995	20	May 19, 1995	Nov. 7, 1995	Nov. 14, 1995	47	Nov. 27, 1995 (Mon.)
May 9, 1995	May 16, 1995	21	May 26, 1995	Nov. 14, 1995	Nov. 21, 1995	48	Dec. 1, 1995
May 16, 1995	May 23, 1995	22	June 2, 1995	Nov. 21, 1995	Nov. 28, 1995	49	Dec. 8, 1995
May 23, 1995	May 30, 1995	23	June 9, 1995	Nov. 28, 1995	Dec. 5, 1995	50	Dec. 15, 1995
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June 13, 1995	June 20, 1995	26	June 30, 1995	Dec. 19, 1995	Dec. 26, 1995	1	Jan. 5, 1996
June 20, 1995	June 27, 1995	27	July 7, 1995	Dec. 26, 1995	Jan. 2, 1996	2	Jan. 12, 1996

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).



## AUDITOR GENERAL

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Code of Regulations

2) Code Citation: 74 Ill. Adm. Code 420

3) Section Numbers: Proposed Action:

420.10 Amend  
420.110 Amend  
420.120 Amend  
420.130 Amend  
420.140 Amend  
420.210 Amend  
420.220 Amend  
420.230 Amend  
420.240 Amend  
420.250 Amend  
420.310 Amend  
420.320 Amend  
420.330 Repeal  
420.340 Repeal  
420.410 Amend  
420.420 Amend  
420.610 Amend  
420.620 Amend  
420.630 Amend  
420.640 Amend  
420.710 Amend  
420.720 Amend

4) Statutory Authority: Subparts A and B implementing and authorized by Section 3-7 of the Illinois State Auditing Act (30 ILCS 5/3-7); Subpart C implementing and authorized by Sections 3-8(b), 3-8(c), and 3-8(d) of the Illinois State Auditing Act (30 ILCS 5/3-8(b), 3-8(c), and 3-8(d)); Subpart D implementing and authorized by Section 3-6 of the Illinois State Auditing Act (30 ILCS 5/3-6); Subpart E implementing and authorized by Section 3-8 of the Illinois State Auditing Act (30 ILCS 5/3-8); Subpart G implementing and authorized by Sections 3-7, 3-8(a), and 3-11 of the Illinois State Auditing Act (30 ILCS 5/3-7, 3-8(a) and 3-11); Subpart H implementing and authorized by Sections 3-7, 3-8(c), and 3-8(d) of the Illinois State Auditing Act (30 ILCS 5/3-7, 3-8(c) and 3-8(d)).

5) A Complete Description of the Subjects and Issues Involved: These proposed amendments make numerous technical and substantive changes, including: updating statutory and Illinois Administrative Code citations; making all references gender-neutral; clarifying persons to whom notice of an investigation and investigatory reports must be given; changing standards for delegation of investigatory authority; changing timeframes and procedures for receipt of written comments to report findings and

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## NOTICE OF PROPOSED AMENDMENTS

recommendations; updating audit scope and standards to requirements of the Illinois State Auditing Act, generally accepted government auditing standards and other applicable requirements; providing for changes in the frequency of mandatory financial or compliance audits; providing additional procedures for maintenance of information.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not create, enlarge or modify a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Pursuant to Section 3-7 of the Illinois State Auditing Act, written comments may be submitted within 60 days of publication of this notice to:

Rebecca Patton  
Office of the Auditor General  
740 E. Ash Street  
Springfield, Illinois 62703  
(217) 782-6698  
TDD: (217) 524-4646  
Fax: (217) 785-8222

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1995

The full text of the Proposed Rule begins on the next page:



## AUDITOR GENERAL

## NOTICE OF PROPOSED AMENDMENTS

TITLE 74: PUBLIC FINANCE  
CHAPTER III: AUDITOR GENERAL

## PART 420

## CODE OF REGULATIONS

## SUBPART A: STANDARDS OF CONSTRUCTION FOR REGULATIONS

Section  
420.10 Introduction  
420.20 General Provisions

## SUBPART B: DEFINITIONS

Section  
420.110 Introduction  
420.120 General Provisions  
420.130 Abbreviations  
420.140 Specific Definitions

## SUBPART C: INVESTIGATIONS

Section  
420.210 Introduction  
420.220 General Particulars  
420.230 Right to Information  
420.240 Investigative Personnel  
420.250 Investigation Procedures and Reports

SUBPART D: STANDARDS APPLICABLE TO AUDITS  
OF ILLINOIS STATE GOVERNMENTAL ORGANIZATIONS AND PROGRAMS  
AND TO COMPLIANCE AUDITS CONDUCTED BY STATE AGENCIES  
OF LOCAL AND PRIVATE AGENCIES

Section  
420.310 Introduction  
420.320 General Provisions  
420.330 Examination and Evaluation Standards (Repealed)  
420.340 Reporting Standards (Repealed)

## SUBPART E: FREQUENCY OF MANDATORY FINANCIAL OR COMPLIANCE AUDITS

Section  
420.410 Introduction  
420.420 General Provisions  
420.430 Miscellaneous Provisions

## SUBPART F: REVIEW OF RECEIPT OR COLLECTION

## AUDITOR GENERAL

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## OF STATE REVENUE BY STATE AGENCIES

Section  
420.510 Introduction (Repealed)  
420.520 Review of Receipt or Collection of State Revenues by State Agencies (Repealed)  
420.530 Miscellaneous Provisions (Repealed)

## SUBPART G: MAINTENANCE OF INFORMATION

Section  
420.610 Introduction  
420.620 General Provisions  
420.630 Confidential Information  
420.640 Disclosure and Dissemination of Information

## SUBPART H: CONSULTATIONS AND RESPONSES TO FINDINGS

Section  
420.710 Introduction  
420.720 Consultations with Heads of Agencies and Individuals

AUTHORITY: Subparts A and B implementing and authorized by Section 3-7 of the Illinois State Auditing Act [30 ILCS 5/3-7]; Subpart C implementing and authorized by Sections 3-8(b), 3-8(c), and 3-8(d) of the Illinois State Auditing Act [30 ILCS 5/3-8(b), 3-8(c), and 3-8(d)]; Subpart D implementing and authorized by Section 3-6 of the Illinois State Auditing Act [30 ILCS 5/3-6]; Subpart E implementing and authorized by Section 3-8 of the Illinois State Auditing Act [30 ILCS 5/3-8]; Subpart G implementing and authorized by Sections 3-7, 3-8(a), and 3-11 of the Illinois State Auditing Act [30 ILCS 5/3-7, 3-8(a) and 3-11]; Subpart H implementing and authorized by Sections 3-7, 3-8(c), and 3-8(d) of the Illinois State Auditing Act [30 ILCS 5/3-7, 3-8(c) and 3-8(d)].

SOURCE: Rules and Regulations of the Auditor General filed March 8, 1976, effective March 18, 1976, and amended: effective April 15, 1976: effective September 1, 1976; amended at 3 Ill. Reg. 5, p. 865, effective January 27, 1979; amended at 3 Ill. Reg. 5, p. 868, effective January 27, 1979; amended at 3 Ill. Reg. 15, p. 107, effective April 12, 1979; amended at 3 Ill. Reg. 34, p. 99, effective August 20, 1979; amended at 3 Ill. Reg. 48, p. 138, effective November 29, 1979; amended at 4 Ill. Reg. 40, p. 49, effective September 19, 1980; codified at 5 Ill. Reg. 10575; amended at 6 Ill. Reg. 2587, effective March 10, 1982; amended at 7 Ill. Reg. 1216, effective February 5, 1983; amended at 7 Ill. Reg. 6475, effective May 15, 1983; amended at 7 Ill. Reg. 6481, effective May 15, 1983; amended at 8 Ill. Reg. 7214, effective May 25, 1984; amended at 8 Ill. Reg. 17244, effective September 15, 1984; amended at 14 Ill. Reg. 15327, effective September 10, 1990; amended at 15 Ill. Reg. 3429, effective March 1, 1991; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.



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## SUBPART A: STANDARDS OF CONSTRUCTION FOR REGULATIONS

## Section 420.10 Introduction

- a) SUBJECT. This subpart establishes the standards of construction applicable to all regulations promulgated by the Office of the Auditor General (74 Ill. Adm. Code 420).
- b) AUTHORITY. This subpart is promulgated under the authority of Section 3-7 of the Illinois State Auditing Act [30 ILCS 5/3-7] ~~†111--Rev-Stat--1979--ch--157--par--303-7†~~.
- c) INCORPORATIONS. The following material is incorporated by reference and made a part of this regulation:  
Definitions of the Office of the Auditor General as now and hereafter amended (Section 420, Subpart B of this Part).
- d) EFFECTIVE DATE. This Subpart subpart becomes effective on March 18, 1976.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: DEFINITIONS

## Section 420.110 Introduction

- a) SUBJECT. This Subpart subpart establishes the definitions of words, phrases, terms, and abbreviations used in regulations promulgated by the Office of the Auditor General.
- b) AUTHORITY. This Subpart subpart is promulgated under the authority of Section 3-7 of the Illinois State Auditing Act [30 ILCS 5/3-7] ~~†111--Rev-Stat--1979--ch--157--par--303-7†~~.
- c) INCORPORATIONS. The following material is incorporated by reference and made a part of this regulation:  
Standards of Construction for Regulations of the Office of the Auditor General as now and hereafter amended (Subpart A of this Part ~~74-111-Adm-Code-Part-420-Subpart-A~~).
- d) EFFECTIVE DATE. This Subpart subpart becomes effective March 18, 1976.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.120 General Provisions

- a) DEFINITIONS ISAA. Words which are defined in the Illinois State Auditing Act [30 ILCS 5] ~~†111--Rev-Stat--1979--ch--157--par--303-1-et-seq--approved-September-26-1973--as-now-and-hereafter-amended†~~ have the same meanings when used in this Part part as they have in the Illinois State Auditing Act unless there is an explicit indication to

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- b) the contrary.  
APPLICATION.

- 1) Words defined in this Subpart subpart, when used in this Part part, shall have the meanings or modifications established in this Subpart subpart unless the context clearly requires otherwise or a different definition is explicitly made applicable.
- 2) If a word is defined in a particular Subpart subpart, the definition given in that Subpart subpart does not necessarily apply when the defined word is used in a different Subpart subpart unless there is a specific incorporation.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.130 Abbreviations

- a) C.R.G. C.Rg means Code of Regulations (74 Ill. Adm. Code Part 420).
- b) C.R.L. C.Rl means Code of Rules (74 Ill. Adm. Code Part 440).
- c) IPA. IPA means the Illinois Purchasing Act as now and hereafter amended [30 ILCS 505] ~~†111--Rev-Stat--1979--ch--127--par--132-1-et-seq-7†~~.
- d) ISAA. ISAA means the Illinois State Auditing Act as now and hereafter amended [30 ILCS 5] ~~†111--Rev-Stat--1979--ch--157--par--303-1-et-seq-7†~~.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.140 Specific Definitions

- a) CODE OF REGULATIONS. Code of Regulations means the official compilation of Regulations promulgated by the Auditor General and currently in effect (74 Ill. Adm. Code 420 ~~Part-420~~).
- b) CODE OF RULES. Code of Rules means the official compilation of Rules promulgated by the Auditor General and currently in effect (74 Ill. Adm. Code 440).
- c) OFFICER OF THE OFFICE OF THE AUDITOR GENERAL. Officer of the Office of the Auditor General means any individual designated as a State Auditor; or any Special Assistant Auditor, Deputy Auditor, or other individual empowered by the Auditor General to act with respect to the performance of a specific audit, study, or investigation.
- d) RULEMAKING. Rulemaking means separately or in combination any processes, procedures, or activities intended to or which results in a Rule or Regulation. Rulemaking includes the adoption, amendment, modification, update, suspension, repeal, recession, or termination of a rule or regulation.
- e) STATE AUDITOR. State Auditor means a State payroll employee of the



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Office of the Auditor General who has been authorized to conduct audits, investigations, and studies by the Auditor General, and who has otherwise been appointed State Auditor in accordance with the personnel rules of the Office of the Auditor General.

f) WORD. Word includes terms, phrases, and abbreviations.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: INVESTIGATIONS

## Section 420.210 Introduction

a) SUBJECT. This Subpart ~~subpart~~ deals with the procedures to be followed during investigations conducted by the Auditor General pursuant to the Illinois State Auditing Act (ISAA); standards of delegation of authority to conduct investigations to persons who are not employees of the Auditor General; consultation with heads of agencies before the issuance of reports; the opportunity for heads of agencies to respond to reports; and the opportunity for persons who may, individually, be the subject of a report to respond to findings or recommendations in the report which pertain to them.

b) AUTHORITY. ~~Paras. 3-8(b), 3-8(c), 3-8(d) ISAA [30 ILCS 5/3-8(b), 3-8(c), and 3-8(d)]~~ ~~---Rev---Stat---1979---ch---157---par---303-0(b)77---303-0(c)77---and 303-0(d)77.~~

## c) REFERENCES.

Section 1-17 ISAA Definition of Investigation [30 ILCS 5/1-17] ~~††††† Rev---Stat---1979---ch---157---par---303-177.~~

Section 3-1 ISAA Jurisdiction of Auditor General [30 ILCS 5/3-1] ~~††††† Rev---Stat---1979---ch---157---par---303-17.~~

Section 3-4 ISAA Investigations [30 ILCS 5/3-4] ~~††††† Rev---Stat---1979---ch---157---par---303-47.~~

Section 3-11 ISAA Maintenance of Records [30 ILCS 5/3-11] ~~††††† Rev---Stat---1979---ch---157---par---303-117.~~

Section 3-12 ISAA Cooperation of State Agencies [30 ILCS 5/3-12] ~~††††† Rev---Stat---1979---ch---157---par---303-127.~~

Section 3-15 ISAA Reports of Auditor General [30 ILCS 5/3-15] ~~††††† Rev---Stat---1979---ch---157---par---303-157.~~

d) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart ~~subpart~~:

1) Standards of Construction for Regulations ~~of the Office of the Auditor General, as now and hereafter amended~~ [Subpart A of this Part] ~~†74-1117-Adm---Code-Part-4207-Subpart-A7.~~

2) Definitions [Subpart B of this Part] ~~of the Office of the Auditor General, as now and hereafter amended~~ ~~†74-1117-Adm---Code-Part 4207-Subpart-B7.~~

e) DEFINITIONS. When used in this Subpart ~~subpart~~ the term Audit

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Manager shall have the following meaning:  
Audit Manager means the State Auditor ~~state-auditor~~ assigned by the Auditor General or the Deputy Auditor General to be the person responsible for conducting the investigation and in charge of any of the auditors ~~Auditors~~ participating in the investigation.

f) EFFECTIVE DATE. This Subpart ~~subpart~~ becomes effective on April 15, 1976.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.220 General Particulars

a) COMMENCEMENT OF INVESTIGATIONS. An investigation after being authorized pursuant to Section 3-4 ISAA shall be commenced only upon the written direction of the Auditor General or Deputy Auditor General to an Audit Manager.

b) NOTICE OF INVESTIGATION TO PARTIES.

1) The Audit Manager shall make a reasonable attempt to notify each party who is named in the resolution directing the investigation of the existence of the investigation and provide as part of this notice: a copy of the resolution directing the investigation; a copy of the ~~Audit Manager's~~ ~~his~~ assignment by the Auditor General; a copy of the agency notification to employees; and a copy of this regulation.

2) Reasonable attempt to notify a party shall be accomplished:

A) If the party is an agency or artificial person, by  
i) personal delivery to an officer or lawful agent; or  
ii) certified U.S. mail, return receipt requested, addressed to an officer or lawful agent at any office of the agency or artificial person.

B) If the party is a natural person, by

i) personal delivery; or  
ii) certified U.S. mail, return receipt requested, addressed to the person at the person's ~~his~~ last known address or principal place of business or employment.

3) For purposes of this subsection (b), the phrase a "party who is named in the resolution" means any individual, business, partnership, agency, corporation or other entity that the resolution specifically requires the Auditor General to investigate and from whom the Auditor General is required to obtain information during the course of conducting the investigation.

c) AGENCY NOTIFICATION TO EMPLOYEES.

1) Within seven (7) days after the receipt of a notification of investigation, the chief executive officer (or person acting in his or her stead) of any agency involved in the investigation shall sign and cause to be circulated to those persons designated



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by the Audit Manager and such other persons as determined by the agency head, the Notice to Cooperate provided by the Office of the Auditor General. A signed copy of the notice shall also be given to the Audit Manager.

- 2) This notice shall be in the following form:

NOTICE TO COOPERATE IN INVESTIGATION  
CONDUCTED BY THE AUDITOR GENERAL

TO ALL EMPLOYEES:

Please be advised that \_\_\_\_\_ has by resolution directed the Auditor General to investigate (set out specific language of resolution):

The Illinois State Auditing Act provides that the officers and employees of our agency shall make available to the Auditor General or the Auditor General's ~~his~~ designated representative any record or information requested and shall provide for examination or copying all records, accounts, papers, reports, vouchers, correspondence, books and other documentation in the custody of the agency including information stored in electronic data processing systems which is related to or within the scope of the investigation described above.

(Agency Head may include a paragraph to remind personnel of statutory requirements of confidentiality, if any, that apply to the agency.) \_\_\_\_\_

Please extend your complete cooperation.

Agency Head \_\_\_\_\_

- d) AGENCY RESPONSE TO NOTIFICATION. Within seven (7) days after receipt of the Notice of Investigation as provided in subsection (b) above ~~74~~ ~~Ill--Adm--Code--Section--420-220(b)~~, the chief executive officer or the person acting in his or her stead shall notify the Audit Manager of the name of some knowledgeable employee who shall be available to aid the Auditor General's representatives in locating material under the agency's control or in determining which agency personnel or other persons have knowledge of any matters within the scope of the investigation.

- e) APPEAL TO THE AUDITOR GENERAL. When a controversy arises during the course of an investigation between the Audit Manager and a person named in the resolution or an agency involved in an investigation, the controverted issue may be appealed to the Auditor General by the person named or the agency head by submitting a concise statement of the controverted issue in writing to the Auditor General at the Auditor General's ~~his~~ office in Springfield, Illinois. The Auditor

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General shall issue a his written response within 5 days.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.230 Right to Information

- a) AGENCY REPRESENTATION. An agency has no right to be represented by counsel in its response to an investigation. The representatives of the Auditor General shall not be required to submit to any screening of information requests or answers thereto as a condition to direct contact with agency personnel or records.
- b) INDIVIDUAL'S RIGHT TO COUNSEL. Any individual shall have the right to engage counsel who has no connection with an agency or office whose personnel or activities are the subject matter of the investigation to advise the individual on his or her legal rights. Counsel may not answer or reply for the individual.
- c) USE OF PROCESSES.

- 1) When requested by the Audit Manager, the Auditor General or Deputy Auditor General may issue subpoenas as desirable during the conduct of an investigation.

- 2) If an individual associated with the Office of the Auditor General is participating in an investigation and is not a State Auditor, then the Auditor General may, in his or her discretion, empower the individual to administer oaths and affirmations, and take depositions and testimony during the course of a specific investigation, by delegating such authority in writing.

- d) ENFORCEMENT. Upon notification by the Audit Manager of an unreasonable delay or of a failure to respond to a request for information or process relating to the investigation, the Auditor General or Deputy Auditor General may initiate appropriate legal proceedings to secure compliance.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.240 Investigative Personnel

- a) IDENTIFICATION.

- 1) State Auditors will possess the official identification portfolio supplied and issued by the Auditor General. This identification will verify that the issue is a State Auditor of the Office of the Auditor General.
- 2) Special Assistant Auditors assigned to a particular investigation will be issued documentation substantiating their authority ~~a special~~ ~~-----identification-----portfolio~~. The documentation ~~identification--in--this--portfolio~~ will identify the Special Assistant Auditor and indicate the Special Assistant Auditor's



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his powers and authorities and the investigation to which they apply.

- b) STANDARDS FOR DELEGATION OF INVESTIGATORY POWERS TO PERSONS NOT EMPLOYED OF THE AUDITOR GENERAL. Any person who is licensed by the State of Illinois as a Certified Public Accountant, Attorney, Professional Engineer or any person licensed by the Department of Registration and Education of the State of Illinois shall be qualified by education or experience to be appointed a Special Assistant Auditor to conduct or assist in a specific investigation. The appointment shall be by written contract which shall provide that it may be cancelled by the Auditor General at any time without cause. No person who has been employed or associated within the past four (4) years with an agency, entity or individual named or involved in the investigation, shall be employed in the investigation.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.250 Investigation Procedures and Reports

- a) TIME DURING WHICH INVESTIGATION IS TO BE CONDUCTED. Any person authorized to participate on behalf of the Auditor General in an investigation shall make every effort to assure that the orderly and efficient conduct of agency activities are subject to a minimum amount of disruption. Interviewing of personnel and examination of records and materials in the possession of agencies or individuals shall be confined to normal business hours unless otherwise agreed upon.
- b) FURNISHING OF WORK AREA. An agency involved in an investigation, shall make reasonable effort to furnish the Auditor General's representatives a private area to carry out their duties.
- c) PRIVACY. In the discretion of any auditor assigned to an investigation, or at the request of the individual being questioned, any part of the investigation may be held outside the presence of all persons other than representatives of the Office of the Auditor General; the individual being questioned; and the individual's counsel, if the individual desires to have his or her counsel present.
- d) SAFEGUARDING OF INFORMATION DURING INVESTIGATION. All information obtained during the conduct of an investigation shall be held in strict confidence by the Office of the Auditor General and the personnel of the agencies or offices involved in the investigation during the conduct of an investigation except as provided in subsections (e) and (f) below and Section 420.630(b)(1) of this Part.
- 420.630(a)-(f) and (f). This Section shall not prohibit the communication of information among persons involved in the investigation in furtherance of the investigation.
- e) RESPONSE TO REPORT BY INDIVIDUALS.
- i) When the Audit Manager has determined the proposed findings and recommendations to be included in an investigation report, the

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Audit Manager he shall forward to each individual who was the subject of an investigation report those proposed findings and recommendations which relate to him or her. After the receipt of these materials an individual shall have 21 25 days in which to direct to the Auditor General any written comments the individual may have concerning the findings or recommendations involving him or her. Copies of an individual's written comments will be included in the final version of the investigation report if they are received in the Springfield Office of the Auditor General on or before the 21st 25th day after the materials being commented upon were received by the individual.

- 2) Any written comments received after the period indicated above will be handled as follows: A) If the authorized distribution of the final investigation report to which the comments apply has been accomplished, then a copy of the comments will be immediately forwarded to all parties authorized to receive copies of the final investigation report. B) If the authorized distribution of the final investigation report has not been accomplished, then a copy of the comments will be forwarded with the final investigation report when the authorized distribution is made. C) In all cases, the written comments will be maintained in the official files of the Office of the Auditor General and thereafter dispensed with copies of the investigation report to which they pertain.
- 3) The Auditor General, in his or her sole discretion, may extend any time period or deadline specified in this Section.
- 4) For purposes of this subsection, the term "individual" means any person, business, partnership, corporation or other entity, other than a State agency, that is specifically named in a recommendation contained in an investigation report.
- f) RESPONSE TO REPORT BY HEADS OF AGENCIES.
- 1) When the Audit Manager has determined the proposed findings and recommendations to be included in an investigation report, the Audit Manager he shall forward a copy to the head of each agency involved in the investigation. Upon receiving a copy of the proposed findings and recommendations, an agency head (or his or her designee) shall have
- A) 7 days from receipt of the proposed findings and recommendations in which to request a conference (if he or she desires one) with the Office of the Auditor General concerning the proposed findings and recommendations, and shall be available for such conferences during the 10-day period following the date of the request. All requested conferences shall be completed within 14 days from the agency's receipt of the proposed findings and recommendations this 10 day period.



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ii) Within 3 days of the close of the conference, the Office of the Auditor General shall forward to the agency head any changes in the proposed findings and recommendations.

B) 21 25 days from receipt of the proposed findings and recommendations in which to deliver ~~direct~~ to the Auditor General any written comments the agency may have concerning the findings and recommendations involving the agency.

2) A copy of an agency's written comments will be included in the final version of the investigation report if they are received in the Springfield Office of the Auditor General on or before the 21st 25th day after the agency's receipt of the proposed findings and recommendations ~~after the materials being commented upon were received by the agency.~~

3) In the absence of a written response from the agency, within 21 25 days from the receipt by the agency head of the proposed findings and recommendations, the investigation report may be submitted without response. If no conference was held, the reason therefore shall be included in the audit workpapers with the report. Any written comments received after the period indicated above ~~A) if the authorized distribution of the final investigation report to which the comments apply has been accomplished, then a copy of the comments will be immediately forwarded to all parties authorized to receive copies of the final investigation report. B) if the authorized distribution of the final investigation report to which the comments apply has not been accomplished, then a copy of the comments will be forwarded with the final investigation report when the authorized distribution is made. C) in all cases the written comments will be maintained in the official files of the Office of the Auditor General and thereafter dispensed with copies of the investigation report to which they pertain.~~

4) The Auditor General, in his or her sole discretion, may extend any time period or deadline specified in this Section ~~section.~~

g) INVESTIGATION REPORTS. Upon completion of the investigation, the Auditor General will issue a report and submit copies in accordance with the provisions of Section 3-4 ISAA and maintain the records in accordance with the provisions of Section 3-11 ISAA and the regulation promulgated in relation thereto.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: STANDARDS APPLICABLE TO AUDITS  
OF ILLINOIS STATE GOVERNMENTAL ORGANIZATIONS AND PROGRAMS  
AND TO COMPLIANCE AUDITS CONDUCTED BY STATE AGENCIES  
OF LOCAL AND PRIVATE AGENCIES

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## Section 420.310 Introduction

a) SUBJECT. Subject:

1) This Subpart ~~subpart~~ establishes the audit standards applicable to:  
to:  
A) audits conducted pursuant to the authority of the Auditor General, and  
B) compliance audits conducted by State agencies of local government agencies or private agencies which are grantees or recipients of public funds of the State or of federal funds through projects administered by a State agency.

2) The standards established in this Subpart ~~subpart~~ concern the scope and quality of the audit work and prescribe the contents and attributes of an acceptable audit report.

b) AUTHORITY. Authority: This regulation is promulgated pursuant to the authority of Section 3-6 ISAA [30 ILCS 5/3-6].

c) INCORPORATIONS. Incorportations: The following materials are incorporated by reference and made a part of this regulation:  
1) Standards of Construction for Regulations (Subpart A of this Part) ~~of the Office of the Auditor General as now and hereafter amended (Subpart A).~~

2) Definitions (Subpart B of this Part) ~~of the Office of the Auditor General as now and hereafter amended (74--ill--Adm--Code--Part 420--Subpart-B).~~

d) REFERENCES. References:

Section 4-3 ISAA;

Section 3-7 ISAA;

Section 2-12(c) ISAA.

e) EFFECTIVE DATE. Effective--Date: This Subpart ~~subpart~~ becomes effective on September 19, 1980.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.320 General Provisions

## General Standards-----Scope.

a) SCOPE.

1) The full scope of an audit conducted by the Auditor General may encompass:

A) An examination of financial transactions, accounts and reports;

B) An evaluation of compliance with applicable laws and regulations and conformity with applicable fiscal and business practices;

C) A review of efficiency and economy in the use of resources and soundness of managerial and other operational aspects;

D) A review to determine whether intended Program results are

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- effectively achieved; and:
- E) A review of the controls and integrity associated with computerized information systems.
- 2) The scope for a particular audit conducted by the Auditor General shall be:
- A) That prescribed by Section 1-13 of the Illinois State Auditing Act and by the Rules of the Office of the Auditor General (74 Ill. Adm. Code 440-Subpart C) (74-III-Adm-Code Part-440-Subpart-C) for audits conducted pursuant to the provisions of Sections 3-1 and Section 3-2 of the Illinois State Auditing Act;
- B) That prescribed by Section 1-13 of the Illinois State Auditing Act for audits conducted pursuant to the Regulations of the Office of the Auditor General (74-III-Adm-Code-Part-440-Subpart-B-Section 420.420(b) of this Part);
- C) That specified by the Regulations of the Office of the Auditor General (74-III-Adm-Code-Section 420.420(c)(2) of this Part) for audits conducted pursuant to Section 420.420(c)(1) of such Regulations;
- D) That specified by an authorizing resolution approved by the Legislative Audit Commission or by either House of the General Assembly for audits conducted pursuant to the provisions of Sections Section 3-2 and 3-4 of the Illinois State Auditing Act;
- E) That specified by the terms of the agreement for reimbursable federal audits conducted pursuant to the provisions of Section 3-3A 3-2 of the Illinois State Auditing Act; and
- F) That specified by the Auditor General in a notice provided to the Legislative Audit Commission for audits conducted pursuant to Section 3-3 of the Illinois State Auditing Act; and-
- G) That specified by the terms of the engagement for change-over audits conducted pursuant to Section 3-2.1 of the Illinois State Auditing Act.
- 3) The scope for a particular audit conducted by a State agency (other than the Office of the Auditor General) of a local or private agency shall be that specified by the terms of the agreement making the grant or award of funds to the local or private recipient agency. However, all such audits shall at a minimum comply with the requirements of subsection (b) below. determine:
- A) Whether--the--auditee's--records--and--accounting--system--are adequate--to--meet--all--reporting--requirements;
- B) Whether--the--auditee--expended--the--grant--or--award--funds--in accordance--with--the--terms--of--the--grant--or--award--agreement;
- C) Whether--all--specified--recipient--eligibility--requirements

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- were met;
- B) Whether--the--auditee--complied--with--all--specified--matching--or--in-kind--contribution--requirements?
- B) Whether--the--auditee--complied--with--all--specified--maintenance--or--effort--requirements?
- B) Whether--the--auditee--expended--the--grant--or--award--funds--in accordance--with--applicable--laws--rules--and--regulations--and
- C) Whether--the--auditee--complied--with--specified--reporting requirements-
- b) GENERAL, FIELDWORK AND REPORTING STANDARDS. All audits subject to the provisions of the Illinois State Auditing Act and regulations issued thereunder shall be conducted in accordance with standards applicable to the audit engagement, which may include: generally accepting auditing standards (GAAS) issued by the American Institute of Certified Public Accountants, Inc. (AICPA) and other relevant Statements on Auditing Standards (SAS) issued by the Auditing Standards Executive Committee; generally accepted government auditing standards, as embodied in Government Auditing Standards: 1994 Revision (GAS) issued by the Comptroller General of the United States (effective for financial audits of periods ending on or after January 1, 1995, and for performance audits beginning on or after January 1, 1995); and the federal Single Audit Act of 1984, codified at 31 U.S.C. 7501-7507, and circulars implementing that Act issued by the Office of Management and Budget (OMB), including Circulars A-128 and A-133 establishing requirements for, respectively, single audits of governments and of non-profit and educational institutions. Copies of GAS and SAS may be obtained from the AICPA Circulation Department, P.O. Box 2208, Jersey City, NJ 07303-9948. Copies of GAS may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401 (stock number 020-000-00-265-4). Copies of OMB circulars may be obtained from the Financial Management Division, Office of Management and Budget, Washington, D.C. 20503. This incorporation by reference does not include any later amendments or editions. The auditors assigned to perform the audit must collectively possess adequate professional proficiency for the tasks required.
- C) In--all--matters--relating--to--the--audit--work--the--individual--auditors shall maintain an independent attitude.
- D) Due--professional--care--is--to--be--used--in--conducting--the--audit--and--in preparing--related--reports.
- (Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)
- Section 420.330 Examination and Evaluation Standards (Repealed)
- EXAMINATION-AND-EVALUATION-STANDARDS-AND-ABB-ABDUS-
- A) Work-is-to-be-adequately-planned-



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- b) Assistants are to be properly supervised;  
 c) Sufficient competency and relevant evidence is to be obtained and documented to afford a reasonable basis for the auditor's opinion judgments, conclusions and recommendations.

(Source: Repealed at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.340 Reporting Standards (Repealed)

## Reporting Standards-----All Audits-

## a) Distribution:

- 1) Written reports on audits conducted by the Auditor General shall be distributed:

- A) In the manner provided and to the persons specified in Section 3-14 of the Illinois State Auditing Act;  
 B) To all members of the legislative leadership; and  
 C) In the manner provided to any additional persons or entities specified by any authorizing resolution adopted by the Legislative Audit Commission or any House of the General Assembly;

- 2) Written reports on audits conducted by a State agency (other than the Office of the Auditor General) of a local or private agency shall be distributed:

- A) To the agency audited;  
 B) To the State agency conducting, requiring, or arranging for the audit; and  
 C) To other officials responsible for taking action on the results of the audit.

- b) Timeliness-----Reports are to be issued on or before the date specified by resolution if any, and in any event as promptly as possible so as to make the information available for timely use by management and by legislative officials.

## c) Content:

- All reports shall:  
 1) Clearly explain the scope and objectives of the audit;  
 2) Be as concise as possible but at the same time clear and complete enough to be understood by the users;  
 3) Present factual matter accurately, completely, and fairly;  
 4) Present findings and conclusions objectively and in language as clear and simple as the subject matter permits;  
 5) Include only factual information, findings and conclusions that are adequately supported by enough evidence in the auditors working papers to demonstrate or prove when called upon, the basis for the matters reported and their correctness and reasonableness. Retained supporting information should be included in the report to the extent necessary to make a convincing presentation of information, findings, and conclusions.

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based on statistical or other systematic inference may be included provided they are accompanied by a clear statement as to the major underlying assumptions and reasonable alternative conclusions;  
 6) Include when possible recommendations for actions to effect improvements in problem areas noted in the audit and to otherwise make improvements in operations; information on underlying causes of problems reported should be included to assist in implementing or devising corrective actions;

- 7) Present critical comments in balanced perspective recognizing any unusual difficulties or circumstances faced by the operating officials concerned;

- 8) Identify and explain issues and questions needing further study and consideration;

- 9) When appropriate to the scope of the audit include recognition of noteworthy accomplishments, particularly when management improvements in one program or activity may be applicable elsewhere;

- 10) Include recognition of the views of responsible officials of the organization, program, function, or activity audited on the auditor's findings, conclusions, and recommendations as provided in the Administrative Code 420.7-Subpart-B;

- 11) State whether any significant pertinent information has been omitted, the nature of such information and the reason for its omission;

(Source: Repealed at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: FREQUENCY OF MANDATORY FINANCIAL OR COMPLIANCE AUDITS

## Section 420.410 Introduction

- a) SUBJECT. This Subpart subject designates the frequency with which specific agencies will be subject to financial or compliance audits by the Office of the Auditor General.

- b) AUTHORITY. Section 3-8, ISAA [30 ILCS 5/3-8] (Ill. Rev. Stat. 1979 ch. 15, par. 303-8).

- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subject:

- 1) Standards of Construction for Regulations (Subpart A of this Part) of the Office of the Auditor General as now and hereafter amended (74 Ill. Adm. Code Part 420-Subpart-A);  
 2) Definitions (Subpart B of this Part) of the Office of the Auditor General as now and hereafter amended (74 Ill. Adm. Code Part 420-Subpart-B);

- d) REFERENCES. Section 3-2 ISAA, Mandatory and Directed Post Audits [30 ILCS 5/3-2] (Ill. Rev. Stat. 1979 ch. 15, par. 303-2).

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- e) EFFECTIVE DATE. This Subpart subpart becomes effective on March 18, 1976.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.420 General Provisions

- a) STANDARD AUDIT PERIOD. Except as established in this Subpart all agencies for which the Auditor General is required to conduct a financial and compliance audit will be so audited at least once every two years.

- b) AGENCIES TO BE AUDITED YEARLY. The Auditor General shall annually file a list with the Legislative Audit Commission of all agencies for which a mandatory financial and compliance audit shall be conducted yearly. The following agencies or subunits thereof shall be subject to a financial and compliance audit at least once each year:

Community College of East-St.-Louis  
Comptroller-----State-Central-Accounts  
Department-of-the-Bottery  
East-St.-Louis-Development-Authority  
Farm-Development-Authority  
Governor's-Council-on-Health-and-Physical-Fitness--(including Prairie-State-Games)  
Illinois-Community-Development-Finance-Corporation  
Illinois-Development-Finance-Authority  
Illinois-Educational-Facilities-Authority  
Illinois-Export-Development-Authority  
Illinois-Health-Facilities-Authority  
Illinois-Housing-Development-Authority  
Illinois-Independent-Higher-Education-Board-Authority  
Illinois-State-Employees-Deferred-Compensation-Plan  
State-Board-of-Investment  
State-Treasurer-----State-Central-Accounts-Only  
Toll-Highway-Authority

c) FINANCIAL STATEMENT OR COMPRISE AUDITS.

1) The Auditor General shall annually file a list with the Legislative Audit Commission of all agencies subject to a yearly financial statement audit. The following agencies shall be subject to a limited financial or compliance audit as defined in subsection (c) of this Section in each year that the agency is not subject to a regular financial and compliance audit:

Board-of-Governors-----Cooperative-Computer-Center  
Capital-Development-Board  
Chicago-State-University  
Chicago-State-University-Foundation  
Chicago-Technology-Park  
Department-of-Administrative-Services-----Communications-Revolving

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Fund-7-State-Garage-Revolving-Fund-7-Office-Supplies-Revolving-Fund and the Paper and Printing-Revolving-Fund  
Department-of-Corrections-----Correctional-Industries-----Working Capital-Revolving-Fund  
Department-of-Employment-Security  
Department-of-Public-Aid  
Department-of-Revenue  
Department-of-Transportation  
Eastern-Illinois-University  
Eastern-Illinois-University-Alumni-Association  
Eastern-Illinois-University-Foundation  
General-Assembly-Retirement-System  
Governor's-State-University  
Governor's-State-University-Alumni-Association  
Governor's-State-University-Foundation  
Illinois-Educational-Consortium-for-Computer-Services  
Illinois-Mathematics-and-Science-Academy  
Illinois-State-Board-of-Education  
Illinois-Student-Assistance-Commission-----Revenue-Bonds  
Illinois-State-University  
Illinois-State-University-Foundation  
Judges-Retirement-System  
Northwestern-Illinois-University  
Northwestern-Illinois-University-Foundation  
Northern-Illinois-University  
Northern-Illinois-University-Alumni-Association  
Northern-Illinois-University-Foundation  
Prairie-State-2000-Fund  
Sangamon-State-University  
Sangamon-State-University-Alumni-Association  
Sangamon-State-University-Foundation  
Secretary-of-State  
Southern-Illinois-University  
Southern-Illinois-University-Alumni-Association  
Southern-Illinois-University-Foundation  
State-Employees-Retirement-System  
State-Universities-Retirement-System  
Teachers-Retirement-System  
University-of-Illinois  
University-of-Illinois-Alumni-Association  
University-of-Illinois-Foundation  
Western-Illinois-University  
Western-Illinois-University-Foundation

- 2) A financial statement audit shall mean an audit of the financial statements conducted in accordance with generally accepted government auditing standards. Generally accepted government auditing standards are contained in Government Auditing Standards: 1994 Revision issued by the Comptroller General of



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the United States and for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401 (stock number 020-000-00-265-4). A limited financial statement audit shall mean an audit limited to the following:

- A) An examination of agency financial statements made in accordance with generally accepted auditing standards to determine whether the financial statements of the agency are fairly presented, including:

- 1) Testing of the records, books, and accounts of the audited agency to determine whether they accurately reflect its financial and fiscal operations;
- 2) Testing whether the audited agency is maintaining effective accounting control over revenues, expenditures, assets and liabilities.

- B) Reviewing the collection of revenue pursuant to Section 3-10 ISAA and the regulations promulgated thereunder.

- D) ADMINISTRATION. In order to adjust workloads, respond to future audit needs and priorities, comply with federal or State laws and regulations, assist in rendering an opinion on the statewide financial statements, or and maintain an audit firm rotation program, the Auditor General, if necessary, may adjust the audit frequency of any program for the purpose of implementing a needed transition program. The Auditor General shall quarterly notify the Legislative Audit Commission of any changes to the audit frequency of any program.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: MAINTENANCE OF INFORMATION

## Section 420.610 Introduction

- A) SUBJECT. This Subpart establishes the standards concerning the maintenance, availability, and dissemination of information which is a part of or under the control of the Office of the Auditor General.

- B) AUTHORITY.

Section 3-7 ISAA [30 ILCS 5/3-7] (Ill.-Rev-Stat.-1979-CH-15-PAR-303-7).

Section 3-8(a) ISAA [30 ILCS 5/3-8(a)] (Ill.-Rev-Stat.-1979-CH-15-PAR-303-8(a)).

Section 3-11 ISAA [30 ILCS 5/3-11] (Ill.-Rev-Stat.-1979-CH-15-PAR-303-11).

- C) REFERENCES.

Section 2-11 ISAA, Special Assistant Auditors [30 ILCS 5/2-11] (Ill.-Rev-Stat.-1979-CH-15-PAR-302-11).

Section 3-4 ISAA, Investigations [30 ILCS 5/3-4] (Ill.-Rev-Stat.-1979-CH-15-PAR-303-4).

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Section 3-14 ISAA, Audit Reports [30 ILCS 5/3-14] (Ill.-Rev-Stat.-1979-CH-15-PAR-303-14).

Section 6-1 ISAA, Effect on Other Laws [30 ILCS 5/6-1] (Ill.-Rev-Stat.-1979-CH-15-PAR-306-1).

- D) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subpart:

- 1) Standards of Construction for Regulations (Subpart A of this Part), of the Office of the Auditor General, as now and hereafter amended (74-III-Adm-Code-Part-420-Subpart-A);

- 2) Definitions (Subpart B of this Part), of the Office of the Auditor General, as now and hereafter amended (74-III-Adm-Code-Part-420-Subpart-B);

- E) EFFECTIVE DATE. This Subpart subpart becomes effective on April 16, 1979.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.620 General Provisions

- A) AVAILABILITY OF INFORMATION. Except as provided in 74-III-Adm-Code Section 420.630 of this Part, all information maintained by the Office of the Auditor General shall be public information and shall be available to the public as provided by this Subpart subpart.

- B) SUBPOENA OF EMPLOYEES.

- 1) Any employee or agent of the Office of the Auditor General who is served with a subpoena requiring the disclosure of information or the production of any document which is classified confidential shall appear as required by the subpoena and shall respectfully decline to disclose the information or produce any document called for basing the refusal on the requirement of this Section section, unless the person subpoenaed has a written authorization permitting the release of the information or production of the document requested.

- 2) The authorization required by this Section section may be issued only by the Auditor General, Deputy Assistant Auditor General, or the Chief Legal Counsel of the Office of the Auditor General. An authorization may be issued only if the release of the information:

- A) would not contravene any statute;
- B) would not interfere with an ongoing audit or investigation; or
- C) would not unreasonably interfere with an individual's right of privacy.

- 3) In addition, information of other agencies which is confidential by or pursuant to law shall not be disclosed by the Office of the Auditor General, unless:

- A) the information is not available from the officially





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request of the Chair Chairman and Co-Chair Vice-Chairman.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.640 Disclosure and Dissemination of Information

- a) INFORMATION CONFIDENTIAL WHEN ACQUIRED. Information maintained in the office of the Auditor General which was confidential by or pursuant to law when acquired may not be disseminated outside the office for any reason except by court order or as provided in Section 420.620(b) of this Part.
- b) INFORMATION ESTABLISHED CONFIDENTIAL BY THE OUR OFFICE OF THE AUDITOR GENERAL. Information maintained by the Office of the Auditor General which the our office of the Auditor General has established confidential by authority of the Illinois State Auditing Act or these regulations may be released to persons outside the Office of the Auditor General only by order of the Legislative Audit Commission pursuant to Section 3-11 ISAA, by court order, or as specifically provided in this Subpart.
- c) DISSEMINATION OF OTHER STATE AGENCY INFORMATION. Dissemination-of-Other-State-Agency-Information:
  - 1) The Office of the Auditor General may decline to make available records or information which is available or currently controlled by the originating or controlling State agency.
  - 2) Records and information are considered "available" even if the agency or agent refuses to disseminate them, such as information which may be withheld as an exception to the Illinois Freedom of Information Act [5 ILCS 140]. ~~ffff-Rev-Stat-1989---ch-1167~~ ~~para-301-et-seq-~~
- d) DISSEMINATION PROCEDURES AND COPIES (PUBLIC RECORDS).
  - 1) All public records of the Office of the Auditor General stored in the Springfield or Chicago offices shall be available for inspection and copying at their respective office during regular working hours.
  - 2) All public records of the Office of the Auditor General stored at locations other than the Springfield or Chicago offices shall be available for inspection and copying, but only by request and appointment through the office librarian or the-information officer or his or her designee.
  - 3) Any person requesting inspection or copying of public records stored at locations other than the Springfield or Chicago office may require that the records be made available at the Springfield office.
  - 4) The Auditor General may establish reasonable charges to defray the cost of any copies requested.
- e) PURGING OF ACQUIRED CONFIDENTIAL INFORMATION -- MEMORANDUM.
  - 1) Records supplied to the Office of the Auditor General which are

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confidential by or pursuant to law shall be destroyed or returned to the agency from which they were obtained no later than the time of the issuance of the final report for which the information constitutes work papers, unless the Auditor General provides otherwise pursuant to subsection (h) of this Section.

- 2) However, if the records are confidential because they contain personally sensitive information which is machable to individuals, such records need not be destroyed if the--retention is--approved-by-the-Auditor-General--and all means of matching such information to its corresponding individuals has been destroyed. In such cases, the destruction of the means of matching the information to its corresponding individuals shall occur no later than the time of the issuance of the final report for which the information constitutes work papers.
- 3) The person destroying work papers pursuant to this Section section shall place among the work papers a list of the number and type of records destroyed, identification of the source from which the records came, and an affidavit certifying how and when the records were destroyed and the fact that they were so destroyed--such--certificate--shall--be--countersigned-by-a-State Auditor--who--witnessed--the--destruction. The affidavit shall be signed by the person destroying the workpapers and countersigned by an auditor who witnessed the destruction. Each affidavit shall be submitted to an Audit Manager for review.
- f) PURGING OF RECORDS GENERALLY. The Auditor General may destroy any records after five years after the release of the audit to which the records pertain unless a longer retention period is required by law. The Auditor General may establish schedules for the destruction and type of storage for all records relating to the Office of the Auditor General.
- g) ~~MICROFORM~~---MAINTENANCE AND REPRODUCTION OF PERMANENT RECORDS. Permanent records of the Office of the Auditor General may be kept on microform, optical image, or other reliable media ~~film--media~~. The Auditor General shall maintain suitable devices for reading and copying all permanent ~~film~~ records.
- h) EXCEPTIONS TO PURGING AND DISCLOSURE OF WORKPAPERS. Exceptions--to-Purging--and--Disclosure--of--Workpapers. If the Auditor General or Deputy Auditor General determines, in a written document certified by the Auditor General or Deputy Auditor General, that the establishment of the working papers of a particular audit as public records or the purging of confidential information contained in the work papers of a particular audit would:
  - 1) impair the reporting or defending of the audit;
  - 2) impair future or follow-up audit work;
  - 3) compromise the integrity of the audit process; or
  - 4) disclose confidential information, because of the postponement of the purging of confidential information pursuant to the Auditor General's authority under this subsection ~~subparagraph (h)-of~~



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this Section,

then the Auditor General may postpone the implementation of the requirements of Section ~~Sections~~ 420.630(b)(2) of this Part or subsection (e) above ~~420-640(c)~~ for up to twelve ~~six~~ months. After twelve ~~six~~ months the postponement shall lapse and may be renewed, for up to twelve ~~six~~ months at a time, only if the Legislative Audit Commission shall specifically approve such renewal.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: CONSULTATIONS AND RESPONSES TO FINDINGS

## Section 420.710 Introduction

- a) SUBJECT. This Subpart ~~subpart~~ covers consultations with heads of agencies concerning findings and recommendations in audit reports before the issuance of such reports; and the opportunity for persons who are identified by name in a recommendation contained in ~~may individually be the subject of a post audit report to respond to findings or recommendations in the report which pertain to them.~~
- b) AUTHORITY. Sections 3-7, 3-8(c), 3-8(d), ISAA [30 ILCS 5/3-7, 3-8(c) and 3-8(d)] ~~(((111-Rev-Stat-1979, ch. 15, pars. 303-77-303-8(c) and 303-8(d)).~~

- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart ~~subpart~~:

- 1) Standards of Construction for Regulations (Subpart A of this Part), ~~of the Office of the Auditor-General as now and hereafter amended (74-111-Adm-Code-Subpart-A7,~~
- 2) Definitions (Subpart B of this Part), ~~of the Office of the Auditor-General as now and hereafter amended (74-111-Adm-Code-Subpart-B7,~~

- d) EFFECTIVE DATE. This regulation becomes effective on November 29, 1979 (This regulation is subject to Section 3-7 of the ISAA requiring approval by the Legislative Audit Commission within 90 days of its submission to the Commission).

- e) DEFINITIONS. Audit report means the document issued by the Auditor General upon the completion of a post audit by the Auditor General, which report may include any or all of the following: financial statements, statements of facts, findings, conclusions, recommendations, responses to audit findings by agencies or individuals; and shall include a "Report Digest" signed by the Auditor General.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 420.720 Consultations with Heads of Agencies and Individuals

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## a) RESPONSES TO PROPOSED FINDINGS BY AGENCIES.

- 1) When the Office of the Auditor General has determined the proposed findings and recommendations to be included in an audit report, ~~he shall forward a copy shall be forwarded to the head of each agency covered by the audit. Upon receiving a copy of the proposed findings and recommendations, an agency head (or his or her designee) shall have:~~

- A) 7 days from receipt of the proposed findings and recommendations in which to request a conference (if the agency head ~~he~~ desires one) with the Office of the Auditor General concerning the proposed findings and recommendations; ~~and shall be available for such conferences during the 10-day period following the date of the request.~~
- All requested conferences shall be completed within 14 days from the agency's receipt of the proposed findings and recommendations ~~this 10-day period~~. If no conference was held, the reason therefore shall be included in the audit ~~workpapers with the audit report.~~

- B) 21 5 days from receipt of the proposed findings and recommendations in which to deliver ~~direct~~ to the Auditor General any written comments the agency may have concerning the findings and recommendations involving the agency.

- 2) A copy of the agency's written comments will be included in the final version of the audit report if the comments are received in the Springfield office of the Auditor General on or before the 21st 25th day after the agency's receipt of the proposed findings and recommendations ~~after the materials being commented upon were received by the agency.~~

- 3) In the absence of a written response from the agency, within 21 25 days from the receipt by the agency head of the proposed findings and recommendations, the audit report may be issued without response. Written comments ~~comments~~ received after 21 25 days will be placed in the audit file.

- 4) Where size of the agency or the complexity of the audit would require additional response time, the Division ~~audit~~ director assigned to the audit by the Auditor General, upon request from the agency head ~~director~~, may extend any time period or deadline specified by this Section ~~section~~.

## b) RESPONSES TO PROPOSED FINDINGS BY INDIVIDUALS.

- 1) When the audit manager has determined the proposed findings and recommendations to be included in an audit report, the ~~audit~~ manager ~~he~~ shall forward to each individual who is identified by name in a recommendation contained in the ~~subject of~~ the audit report those proposed findings and recommendations which relate to that individual ~~him~~. After the receipt of these materials, the individual shall have 21 25 days in which to deliver ~~direct~~ to the Auditor General any written comments the individual may have concerning the findings or recommendations involving him or

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her. Copies of an individual's written comments will be included in the final version of the audit report if they are received in the Springfield office of the Auditor General on or before the 21st 25th day after the proposed findings and recommendations ~~materials--being--commented-upon~~ were received by the individual. Comments received after 21 25 days will be placed in the audit file.

2) When an individual who is the subject of an audit report demonstrates an ~~his~~ inability because of personal hardship to meet the deadlines specified in this Section ~~section~~, the Division ~~audit~~ director ~~assigned--to--the-audit-by-the-Auditor General~~ may extend the specified time period or deadline.

c) RESPONSES TO NEW MATTER IN REPORT ' DIGEST. When a Report Digest contains findings and recommendations ~~matters~~ not previously submitted with the proposed Report text ~~findings~~, a copy of the ~~matters-to-be included-in-the~~ Report Digest shall be forwarded to the agency and/or individual covered by the audit for comment. The agency and/or individual covered by the new material will have 7 5 days from receipt of the Report Digest ~~new--matter~~ in which to make written ~~format~~ comment.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Code of Rules
- 2) Code Citation: 74 Ill. Adm. Code 440
- 3) Section Numbers: Proposed Action:

440.10	Amend
440.110	Amend
440.120	Amend
440.130	Amend
440.140	Amend
440.210	Amend
440.310	Amend
440.330	Amend
440.410	Amend
440.420	Amend
440.510	Amend
440.610	Amend
440.620	Amend
440.710	Amend
440.720	Amend
440.730	Amend

4) Statutory Authority: Subparts A and B implementing and authorized by Section 2-12(a) of the Illinois State Auditing Act [30 ILCS 5/2-12(a)]; Subpart C implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]; Subpart D implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12] and Section 5-145 of the Illinois Administrative Procedure Act [5 ILCS 100/5-145]; Subpart E implementing and authorized by Section 2-12(c)(2) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(2)]; Subpart F implementing and authorized by Section 2-12(c)(3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(3)]; Subpart G implementing and authorized by Section 2-12(c)(4) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(4)]; Subpart H implementing and authorized by Sections 2-12(c)(1) and (3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(1) and (3)].

5) A Complete Description of the Subjects and Issues Involved: These proposed amendments make numerous technical, and a few substantive, changes, including: updating statutory and Illinois Administrative Code citations; making all references gender-neutral; and changing provisions for delegation of contracting authority, selection of contractors, signature of documents, and payment of witness fees and mileage for responding to a subpoena.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No



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- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not create, enlarge or modify a State mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of publication of this notice to:

Rebecca Patton  
Office of the Auditor General  
740 E. Ash Street  
Springfield, Illinois 62703  
phone: (217) 782-6698  
TDD: (217) 524-4646  
fax: (217) 785-8222

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping and or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

## 13) Regulatory Agenda on which this rulemaking was summarized: January 1995

The full text of the Proposed Rule begins on the next page:

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TITLE 74: PUBLIC FINANCE  
CHAPTER III: AUDITOR GENERAL

## PART 440

## CODE OF RULES

## SUBPART A: STANDARDS OF CONSTRUCTION FOR RULES

Section  
440.10  
440.20  
General Provisions

## SUBPART B: DEFINITIONS

Section  
440.110  
440.120  
440.130  
440.140  
Introduction  
General Provisions  
Abbreviations  
Specific Definitions

SUBPART C: CLARIFICATIONS CONCERNING THE DEFINITION OF  
FINANCIAL AUDIT OR COMPLIANCE AUDIT

Section  
440.210  
440.220  
Introduction  
Clarification

SUBPART D: PUBLIC PETITIONS REQUESTING RULEMAKING ACTIONS  
BY THE OFFICE OF THE AUDITOR GENERAL

Section  
440.310  
440.320  
440.330  
Introduction  
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Procedures

## SUBPART E: CONTRACTUAL PERSONAL SERVICES

Section  
440.410  
440.420  
Introduction  
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## SUBPART F: OATHS

Section  
440.510  
440.520  
Introduction  
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## SUBPART G: SUBPOENAS

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Section  
440.610 Introduction  
440.620 General Provisions

## SUBPART H: DEPOSITIONS

Section  
440.710 Introduction  
440.720 General Provisions  
440.730 Procedure

SUBPART I: FINANCIAL ADMINISTRATION OF THE  
STATE AUDIT ADVISORY BOARD

Section  
440.810 Introduction (Repealed)  
440.820 Financial Provisions (Repealed)

**AUTHORITY:** Subparts A and B implementing and authorized by Section 2-12(a) of the Illinois State Auditing Act [30 ILCS 5/2-12(a)]; Subpart C implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12]; Subpart D implementing and authorized by Section 2-12 of the Illinois State Auditing Act [30 ILCS 5/2-12] and Section 5-145 of the Illinois Administrative Procedure Act [5 ILCS 100/5-145]; Subpart E implementing and authorized by Section 2-12(c)(2) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(2)]; Subpart F implementing and authorized by Section 2-12(c)(3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(3)]; Subpart G implementing and authorized by Section 2-12(c)(4) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(4)] Subpart H implementing and authorized by Sections 2-12(c)(1) and (3) of the Illinois State Auditing Act [30 ILCS 5/2-12(c)(1) and (3)].

**SOURCE:** Rules and Regulations of the Auditor General filed and effective February 1, 1976; amended at 2 Ill. Reg. 46, p. 17, effective November 17, 1978; amended at 3 Ill. Reg. 5, p. 860, effective February 2, 1979; amended at 3 Ill. Reg. 50, p. 195, effective December 13, 1979; amended at 4 Ill. Reg. 49, p. 91, effective November 21, 1980; codified at 5 Ill. Reg. 10584; amended at 6 Ill. Reg. 12253, effective September 24, 1982; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: STANDARDS OF CONSTRUCTION FOR RULES

## Section 440.10 Introduction

- a) **SUBJECT.** This Subpart **subpart** establishes the standards of construction applicable to all rules promulgated by the Office of the Auditor General [74 Ill. Adm. Code 440] **(Part-440)**.
- b) **AUTHORITY.** This Subpart **subpart** is promulgated under the authority of Section **Subsection** 2-12(a) of the Illinois State Auditing Act [30 ILCS

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- 5/2-12(a)] **(111-Rev-Stat-1979-ch-15-par-302-12(a))**.
- c) **INCORPORATIONS.** The following material is incorporated by reference and made a part of this Subpart**subpart**:  
Definitions (Subpart B of this Part) **7-as-now--and--hereafter--amended**  
**74-111-Adm-Code-Part-440-Subpart-B7**.
- d) **EFFECTIVE DATE.** This Subpart **subpart** becomes effective on February 1, 1976.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: DEFINITIONS

## Section 440.110 Introduction

- a) **SUBJECT.** This Subpart **subpart** establishes the definitions of words, phrases, terms, and abbreviations used in rules promulgated by the Office of the Auditor General [74 Ill. Adm. Code 440] **(Part-440)**.
- b) **AUTHORITY.** This Subpart **subpart** is promulgated under the authority of Subsection 2-12(a) of the Illinois Auditing Act [30 ILCS 5/2-12(a)] **(111-Rev-Stat-1979-ch-15-par-302-12(a))**.
- c) **INCORPORATION.** The following material is incorporated by reference and made a part of this Subpart**subpart**: Standards of Construction for Rules (Subpart A of this Part) **7-as-now-and--hereafter--amended-(74-111-Adm-Code-Part-440-Subpart-A)**.
- d) **EFFECTIVE DATE.** This Subpart **subpart** becomes effective on February 1, 1976.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 440.120 General Provisions

- a) **DEFINITIONS** ISAA. Words which are defined in the Illinois State Auditing Act [30 ILCS 5] **(111-Rev-Stat-1979-ch-15-par-301-1-et seq-77-approved-Sept-20-1973-as-now-and--hereafter--amended)** have the same meanings when used in this Code of Rules (74 Ill. Adm. Code **Part** 440) as they have in the Illinois State Auditing Act unless there is an explicit indication to the contrary.

b) **APPLICATION.**

- 1) Words defined in this rule, when used in this Code of Rules (74 Ill. Adm. Code **Part** 440) shall have the meanings or modifications established in this subpart unless the context clearly requires otherwise or a different definition is explicitly made applicable.
- 2) If a word is defined in a particular rule, the definition given in that rule does not necessarily apply when the defined word is used in a different rule, unless there is a specific



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incorporation.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 440.130 Abbreviations

- a) C.R.G. C.R.g means Code of Regulations (74 Ill. Adm. Code Part 420).  
b) C.R.L. C.R.l means Code of Rules (74 Ill. Adm. Code Part 440).  
c) IPA. IPA means the Illinois Purchasing Act [30 ILCS 505] ~~r-as-now-and hereafter-amended-(111-Rev-Stat-1979-CH-127-Par-132-i-et-seq-7)~~  
d) ISAA. ISAA means the Illinois State Auditing Act [30 ILCS 5] ~~r-as-now-and--hereafter-amended--(111-Rev-Stat-1979-CH-157-Par-301-i-et seq-7)~~.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 440.140 Specific Definitions

- a) CODE OF REGULATIONS. Code of Regulations means the official compilation of regulations promulgated by the Auditor General and currently in effect (74 Ill. Adm. Code 420).  
b) CODE OF RULES. Code of Rules means the official compilation of rules promulgated by the Auditor General and currently in effect (74 Ill. Adm. Code 440) ~~(Part-440)~~.  
c) OFFICER OF THE OFFICE OF THE AUDITOR GENERAL. Officer of the Office of the Auditor General means any individual designated as a State Auditor~~77~~ or any ~~Speciat-Assistant-Auditor~~, Deputy Auditor or other individual empowered by the Auditor General to act with respect to the performance of a specific audit, study, or investigation.  
d) RULEMAKING. Rulemaking means separately or in combination any processes, procedures, or activities intended to result in, or which result in, a rule or regulation. Rulemaking includes the adoption, amendment, modification, update, suspension, repeal, rescission, or termination of a rule or regulation.  
e) STATE AUDITOR. State Auditor means a State payroll employee of the Office of the Auditor General who has been authorized to conduct audits, investigations, and studies by the Auditor General, and who has otherwise been appointed State Auditor in accordance with the personnel rules of the Office of the Auditor General.  
f) WORD. Word includes terms, phrases, and abbreviations.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: CLARIFICATIONS CONCERNING THE DEFINITION  
OF FINANCIAL AUDIT OR COMPLIANCE AUDIT

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## Section 440.210 Introduction

- a) SUBJECT. This subpart establishes clarifications and working interpretations concerning the meaning and requirements of "a financial audit" or "compliance audit."  
b) AUTHORITY. Section 2-12 ISAA [30 ILCS 5/2-12] ~~(111-Rev-Stat-1979-CH-157-Par-302-127)~~. This rule is necessary to effectively accomplish the requirements mandated by Sections 3-2 and 1-13 ISAA [30 ILCS 5/3-2 and 1-13] ~~(111-Rev-Stat-1979-CH-157-Par-303-2-and-301-137)~~.  
c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart ~~subpart~~:

- 1) Standards of Construction for Rules (Subpart A of this Part) of ~~the--Office--of--the-Auditor-General--as--now--and--hereafter--amended--(74-111-Adm-Code-Part-4407-Subpart-A)~~.  
2) Definitions (Subpart B of this Part) for ~~Rules--of--the--Office--of--the-Auditor-General--as--now--and--hereafter--amended--(74-111-Adm-Code-Part-4407-Subpart-B)~~.

- d) EFFECTIVE DATE. This ~~Subpart subpart~~ becomes effective on March 1, 1977.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: PUBLIC PETITIONS REQUESTING RULEMAKING ACTIONS  
BY THE OFFICE OF THE AUDITOR GENERAL

## Section 440.310 Introduction

- a) SUBJECT. This Subpart ~~subpart~~ establishes the policy, procedures and forms governing the submission and disposition of requests by the public for rulemaking actions by the Office of the Auditor General.  
b) AUTHORITY.

Section 5-145, the Illinois Administrative Procedure Act [5 ILCS 100/5-145] ~~(111-Rev-Stat-1991-CH-127-Par-1405-1457)~~.  
Section 2-12, ISAA [30 ILCS 5/2-12] ~~(111-Rev-Stat-1979-CH-157-Par-302-127)~~.

- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart ~~subpart~~:
- 1) Standards of Construction for Rules (Subpart A of this Part) of ~~the--Office--of--the-Auditor-General--as--now--and--hereafter--amended--(74-111-Adm-Code-Part-4407-Subpart-A)~~.  
2) Definitions (Subpart B of this Part) of ~~the--Office--of--the-Auditor-General--as--now--and--hereafter--amended--(74-111-Adm-Code-Part-4407-Subpart-B)~~.

- d) EFFECTIVE DATE. This Subpart ~~subpart~~ becomes effective on February 2, 1979.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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\_\_\_\_\_ )

**Section 440.330 Procedures**

- a) SUBMISSION OF PETITIONS. A petition for a rulemaking action by the Office of the Auditor General must be:

- 1) submitted in writing;
- 2) delivered to the Office of the Auditor General at its Springfield address--~~Marquette--Commerce--Building--1st Floor--509--South-6th Street--Springfield--Illinois--62701; and~~
- 3) in a format covering the information required by this Subpart subject.

- b) FORM OF PETITIONS. Each petition requesting a rulemaking action shall be legible and succinct and shall separately provide the following information:

- 1) The name of the person submitting the petition and the complete mailing address which the Auditor General should use in directing any correspondence or response to the petition.

- 2) A) If the rulemaking action covered by the petition involves an existing rule or regulation, then the title and number of the rule or regulation involved.  
B) If the rulemaking action does not involve an existing rule or regulation, then a short synopsis of the subject and nature of the rulemaking.

- 3) A draft in as much detail as possible of the text of the proposed rulemaking action.
- 4) A statement detailing the reasons and basis for the petition and the desirable benefits if the proposed rulemaking is undertaken; and where necessary, an explanation of the key provisions of the proposal.

- 5) Any other matters, statements, or information which the petitioner deems desirable.

- c) REVIEW OF PETITIONS.

- 1) Each petition submitted to the Office of the Auditor General in accordance with this subpart will be acknowledged to the petitioner at the address specified in the petition. After the petition is reviewed, the petitioner will be sent:

- A) the results of the review;
- B) the final decision of the Office concerning the petition; and

- C) written answer to each specific question asked.

- 2) However, as provided by the Illinois Administrative Procedure Act [5 ILCS 100/5-145] ~~§117--Rev--Stat--1991--ch--1377--par--105--1457, if rulemaking action on the petition is not initiated within 30 days of receipt of the petition by the Office of the Auditor General, then the petition shall be deemed denied.~~

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(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: CONTRACTUAL PERSONAL SERVICES

**Section 440.410 Introduction**

- a) SUBJECT. A rule for the appointment of Special Assistant Auditors and/or nonlicensed entities or individuals performing contractual personal services for the Office of the Auditor General.
- b) SCOPE. This Subpart subject governs all contracts with individuals and entities performing services for the Office of the Auditor General except:

- 1) Services by individuals covered (Personnel Rule).
- 2) Those services secured through competitive bidding.
- 3) Contractual personal services for the maintenance of equipment.
- c) AUTHORITY. Section 2-12(c)(2), ISAA [30 ILCS 5/2-12(c)(2)] ~~§117--Rev--Stat--1979--ch--157--par--302--127--1277~~.

- d) INCORPORATIONS. The following materials are incorporated by reference and made a part of this rule:

- 1) Standards of Construction for Rules (Subpart A of this Part) of ~~the Office of the Auditor General--as now and--hereafter--amended~~ ~~§74--111--Adm--Code--Part--440--Subpart--A~~.

- 2) Definitions (Subpart B of this Part) ~~for Rules of the Office of the Auditor General--as now and--hereafter--amended~~ ~~§74--111--Adm--Code--Part--440--Subpart--B~~.

- e) EFFECTIVE DATE. This Subpart rule becomes effective on November 21, 1980.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 440.420 General Provisions**

- a) GENERAL PROVISIONS.

- 1) Conflicts. No Contractor, Subcontractor or associated principal shall have any interest which would conflict in any manner with the performance of the services to be provided under a contract.
- 2) Contractual evidence. All services secured under this subpart shall be the subject of a written contract, which contract shall be duly approved by ~~the Director of Administrative Services for Funding and the General Counsel for form and legal sufficiency.~~ ~~§74--111--Adm--Code--Section--440--420(b)~~ shall be employed upon the recommendation of an Executive Employee Officer who shall have obtained from a prospective contractor or contractors resumes, supporting materials regarding qualifications and experience, responses to proposals or other documentation of



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proposed work, objectives, costs and credentials to determine the capability of the Contractor to perform the work contemplated under a contract.

- 4) Delegations of authority. The Auditor General has delegated the following authorities to sign requests for proposals of contracts:

A) Signing requests for proposals or contracts (Audit). The authority to sign issue or effectuate in the name of the Auditor General requests for proposals or contracts to hire individuals or entities to assist in or conduct audits, investigations, special studies or other similar activities is delegated to the Assistant Auditor General and the following additional individuals:

i) The Director of Compliance Audit Services for Compliance Audit responsibilities.

ii) The Director of Performance Audit Services for Performance Audit responsibilities.

B) Signing requests for proposals or contracts (Nonaudit). The authority to sign issue or effectuate in the name of the Auditor General requests for proposals or contracts to hire individuals or entities to assist in accomplishing the responsibilities or programs of the office which are not classified as audit under 74-111-Adm. Code Section 440-420(a)(3) is delegated to the following individuals:

Assistant Auditor General

Director of General Management

C) Form of Signature. Whenever an individual is authorized to sign documents other than invoice vouchers in the name of the Auditor General then the preferred form is to type or write the Auditor General's name with the individual signing his own name below as follows:

ROBERT G. CRONSON

By: \_\_\_\_\_

Any delegation of authority by the Auditor General to sign, issue or effectuate, in the name of the Auditor General, Requests for proposals or contracts to hire individuals or entities to assist in accomplishing the responsibilities or programs of the office shall be maintained in writing, signed and dated by the Auditor General, at the office's Springfield location. The form of signature for any delegated authority shall be specified in the document effecting the delegation.

- 5) Documentation. Contract files shall be maintained by the Office of the Auditor General pursuant to 74 Ill. Adm. Code 420: Subpart G and shall contain the resumes, supporting materials regarding qualifications and experience, response to proposals or other documentation of proposed work, objectives, costs and credentials to perform work designated in the contract upon which the selection was based, together with the signature of the Executive

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Employee Officer recommending the selection.

- b) SPECIAL ASSISTANT AUDITORS.

1) General -- Designation. Where the contract contemplates the designation of Special Assistant Auditors, the individuals granted this status shall be set out as required by the contract.

- 2) Compliance audit duties.

A) Prerequisite Audit data sheet. Firms and individuals may request to be placed on the list of available firms for the conduct of compliance audits by submitting prerequisite documents an audit firm data sheet in the form supplied by the Office of the Auditor General to the Compliance Audit Director.

B) Selection. The Compliance Audit Director shall select audit firms or individuals to conduct preliminary surveys of a State agency for purposes of submitting a proposal to conduct an audit. The survey shall cover those items specified by the audit director. Upon receipt of a proposal or proposals satisfactory to the Compliance Audit Director, a contract to perform the audit or a part thereof shall be tendered by the Compliance Audit Director to the Auditor General or the Auditor General's designee for approval.

- 3) Performance audit duties -- Request for proposal -- preparation.

A) All performance audit contracts shall be the subject of a Request for Proposal prepared under the supervision of the Performance Audit Director, unless (in specific cases) this requirement is waived by the Auditor General.

B) Such waiver may be granted in cases where conditions and restrictions are externally imposed which render impracticable the requirement of a Request for Proposal. Such conditions include but are not limited to:

- i) time restrictions on the completion of the report;
- ii) limitations as to the source from which such services are available;
- iii) situations in which an individual Contractor has a background of prior knowledge and experience which renders uneconomic the use of the Request for Proposal process.

- 4) Performance Audit Duties -- Request for proposal -- distribution.

A) The Request for Proposal shall be posted in the office of the Auditor General and distributed to all interested parties with a notice to submit to the Office of the Auditor General at least 10 days prior to time scheduled for evaluation.

B) When the Auditor General determines that it is in the best interest of the state to extend a time period to submit Requests for Proposals, on any subject matter, the extended time frame shall be posted and all parties known by the

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Office of the Auditor General to have received a Request for Proposal shall be notified of the closing date.

C) Such extensions may be granted when:

- i) the number of adequate proposals received within the time period previously specified is not sufficient to form a basis for selection;
- ii) it is apparent, on the basis of information submitted by interested parties to whom Request for Proposals have been directed, that the time period previously established is inadequate.

5) Performance Audit Duties -- Request for proposal -- evaluating. Upon expiration of the time specified in the notice to submit a Request for Proposal, the Performance Audit Director shall cause an evaluation to be made of all Requests for Proposals received.

6) Performance Audit Duties -- Execution of contract. Upon receipt of a satisfactory Request for Proposal, the Performance Audit Director shall tender a contract to perform the services to the Auditor General or the Auditor General's designee for approval.

7) Information Systems Audit Duties -- Whenever possible and practicable, the Information Systems Audit Director shall select individuals or firms to perform information systems audits that are prequalified under subsection (b)(2)(A) above. Upon selecting an individual or firm qualified to perform the audit, the Information Systems Audit Director shall tender a contract to the Auditor General or the Auditor General's designee for approval.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART F: OATHS

Section 440.510 Introduction

- a) SUBJECT. This Subpart subpart establishes:
  - 1) the basic standards concerning the use of oaths by persons associated with the Office of the Auditor General;
  - 2) the delegation of the authority to administer oaths; and
  - 3) the general form of oath to be utilized.
- b) AUTHORITY. This Subpart subpart is promulgated under the authority of Section 2-12(c)(3) ISAA [30 ILCS 5/2-12(c)(3)] ~~ch-157-par-302-12(c)(3)~~.
- c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subpart:

- 1) Standards of Construction for Rules (Subpart A of this Part) ~~7-as~~ now-and-hereafter-amended-174-111-Adm-Code-Part-440-Subpart-A;
- 2) Definitions (Subpart B of this Part) ~~7-as~~ now-and-hereafter-amended-174-111-Adm-Code-Part-440-Subpart-B;

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d) REFERENCES.

Section 2-11(c) ISAA [30 ILCS 5/2-11(c)] ~~111-Rev-Stat-1979-ch-157-par-302-11(c)~~.

Section 2-12(c)(3) ISAA [30 ILCS 5/2-12(c)(3)] ~~111-Rev-Stat-1979-ch-157-par-302-12(c)(3)~~.

Section 3-13 ISAA [30 ILCS 5/3-13] ~~111-Rev-Stat-1979-ch-157-par-303-13~~.

e) EFFECTIVE DATE. This Subpart subpart becomes effective on February 1, 1976.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART G: SUBPOENAS

Section 440.610 Introduction

a) SUBJECT. This Subpart subpart establishes:

- 1) the basic policies and procedures concerning the issuance of subpoenas; and

- 2) the general form and content of subpoenas.

b) AUTHORITY. This Subpart subpart is promulgated under the authority of Section 2-12(c)(4) ISAA [30 ILCS 5/2-12(c)(4)] ~~111-Rev-Stat-1979-ch-157-par-302-12(c)(4)~~.

c) INCORPORATIONS. The following materials are incorporated by reference and made a part of this Subpart subpart:

- 1) Standards of Construction for Rules (Subpart A of this Part) ~~7-as~~ now-and-hereafter-amended-174-111-Adm-Code-Part-440-Subpart-A;
- 2) Definitions (Subpart B of this Part) ~~7-as~~ now-and-hereafter-amended-174-111-Adm-Code-Part-440-Subpart-B;

d) REFERENCES.

Section 2-12(c)(4) ISAA [30 ILCS 5/2-12(c)(4)] ~~111-Rev-Stat-1979-ch-157-par-302-12(c)(4)~~.

Section 3-13 ISAA [30 ILCS 5/3-13] ~~111-Rev-Stat-1979-ch-157-par-303-13~~.

e) EFFECTIVE DATE. This Subpart subpart becomes effective on February 1, 1976.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 440.620 General Provisions

- a) REQUESTS FOR SUBPOENAS. Any State Auditor or Special Assistant Auditor of the Office of the Auditor General may request the issuance of a subpoena by directing a request, in writing, to the Auditor General. Such requests will be in a form and contain such information



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as specified by the Auditor General.

- b) **ISSUANCE OF SUBPOENAS.** Subpoenas will be issued by the Auditor General or a Deputy Auditor General only upon review of an appropriate request. Subpoenas will be executed in two or more original copies, marked "first duplicate original," "second duplicate original," etc. Each signed by the Auditor General or a the Deputy Auditor General. The executed subpoenas shall be delivered to the requesting party for service.

- c) **SERVICE OF SUBPOENA.** Subpoenas may be served by any person who is over age 18 years. Service may be made:

- 1) If the person being served is an individual, by personal delivery of an executed original to the individual, or by leaving an executed original at the individual's usual place of abode, with some person of the family, who is age 13 years or older, provided the server also sends a copy of the subpoena, postage prepaid addressed to the individual at the his individual's usual place of abode.
- 2) If the person being served is a corporation, by leaving an executed original with the registered agent or officer or agent of the corporation.
- 3) If the person being served is an entity other than a corporation or an individual, by leaving an executed original with any officer, partner, associate, or agent of the entity.
- 4) By mailing an executed original by certified mail, return receipt requested, and postage prepaid, to the person to be served at the person's principal place of business or principal office or in the case of an individual at the individual's his principal place of abode.

- d) **RETURN OF SERVICE OF SUBPOENA.** After a subpoena is served, the server shall execute and have acknowledged before a person authorized to administer oaths, the Certificate of Service on the original retained by the server him and return it to the individual in charge of the Post Audit or Investigation.

- e) **ENFORCEMENT.** When a person fails to comply with a subpoena, the individual in charge of the post audit or investigation shall send to the Chief Legal General Counsel a notice of failure to comply accompanied by the duplicate original subpoena showing service together with a request for further action by the Auditor General or other recommendations.

- f) **WITNESS FEES AND MILEAGE.**

- 1) Persons complying with a subpoena of the Office of the Auditor General will be paid attendance costs as provided by statute for civil cases in Illinois Circuit Courts in accordance with the Illinois Revised Statutes ch. 63 par. 13-3a as now and hereafter amended.
- 2) State employees will be asked to waive witness fees and mileage if they appear as witnesses during their regular working hours and within their regularly assigned work district.

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- g) **SUBPOENA FORM.** Subpoenas issued by the Office of the Auditor General shall be in of a form specified by the Auditor General.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: DEPOSITIONS

## Section 440.710 Introduction

- a) **SUBJECT.** This Subpart subpart establishes:

- 1) the basic policies, procedures and guidelines concerning the taking of depositions by State Auditors and Special Assistant Auditors;
  - 2) the procedure for a service of a Notice of Deposition.
- b) **AUTHORITY.** Sections 2-12(c)(1) and (3), ISAA [30 ILCS 5/2-12(c)(1) and (3)] Ill-Rev-Stat-1979-ch-15-par-302-12(c)(1)-and-(3)).
- c) **INCORPORATIONS.** The following materials are incorporated by reference and made a part of this Subpart subpart:

- 1) Standards of Construction for Rules (Subpart A of this Part) 7-as now-and-hereafter-amended-474-111-Adm-Code-Part-440-Subpart-A7.
- 2) Definitions (Subpart B of this Part) 7-as-now-and-hereafter-amended-474-111-Adm-Code-Part-440-Subpart-B7.

- d) **REFERENCES.**

Sections 2-12(c)(1) and (3), ISAA [30 ILCS 5/2-12(c)(1) and (3)] Ill-Rev-Stat-1979-ch-15-par-302-12(c)(1)-and-(3)).  
 Section 3-13, ISAA [30 ILCS 5/3-13] Ill-Rev-Stat-1979-ch-15-par-303-13).

- e) **EFFECTIVE DATE.** This Subpart subpart becomes effective on December 13, 1979.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 440.720 General Provisions

- a) **USE OF DEPOSITION AUTHORITY.** Depositions upon oral examination may be taken when, in the opinion of an audit Director manager, the need to preserve statements or the interrogation of a person under oath is essential to the conduct of an audit or upon direction of the Auditor General.

- b) **PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN.** Depositions may be taken before a State Auditor, a Special Assistant Auditor, or an officer authorized to administer oaths by the laws of the State of Illinois or the United States.

- c) **WHERE DEPOSITION TAKEN.** A deposition may be taken at the office of any State agency where the witness is employed, or in the case of a person other than a State employee, in a suitable location selected by

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the State Auditor or Special Assistant Auditor in the county in which the person resides.

- d) **RECORD OF EXAMINATION: OATH.** The person before whom the deposition is taken shall put the witness on oath and shall personally, or by someone acting under that person's ~~his~~ direction and in that person's ~~his~~ presence, record the testimony of the witness. The testimony shall be taken stenographically or by sound recording service, and upon agreement of the parties may be taken by audio visual recording device. The testimony shall be transcribed at the request of any party. Objections made at the time of the examination shall be included in the deposition.

- e) **SCOPE OF EXAMINATION.** The witness in a deposition may be examined regarding any matter within the scope of a post audit or investigation. No rules of evidence need be observed.

f) **FEES AND CHARGES.**

- 1) The Auditor General's office shall pay the fees of the witness and the charges of the recorder or stenographer for attending.
- 2) The witnesses who are State employees shall not be entitled to a witness or travel fee. Witnesses other than State employees shall be paid the witness and travel fees provided by statute for civil cases in Illinois Circuit Courts.

- 3) **COPIES.** Upon payment of reasonable charges therefor the recorder or stenographer shall furnish a copy of the deposition to the witness.

- n) **FAILURE OF STATE EMPLOYEE TO RESPOND TO SUBPOENA FOR DEPOSITION.** In addition to any other remedy provided by law, the Auditor General shall report the failure by a State official or employee to respond to a subpoena issued by his office as an instance of failure to cooperate by a State agency pursuant to Section 3-12, ISAA [30 ILCS 5/3-12] ~~1111-Rev-Stat-1979; Ch-157-par-303-12).~~

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 440.730 Procedure

- a) **NOTICE OF DEPOSITION.** All Notices of Deposition shall be by service of a Subpoena for Deposition issued and served in accordance with Subpart G of this Part ~~74-111-Adm-Code-Part-440-Subpart-8.~~

- b) **SUBPOENA FOR DEPOSITION FORM.** Subpoena for Deposition issued by the Office of the Auditor General shall be in the form specified by the Auditor General.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

- 1) **Heading of the Part:** Boiler and Pressure Vessel Safety

- 2) **Code Citation:** 41 Ill. Adm. Code 120

- 3) **Section Numbers:** Proposed Action:  
120.11 Amendment

- 4) **Statutory Authority:** Implementing the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and authorized by Sections 2 and 2.1 of the Boiler and Pressure Vessel Safety Act (430 ILCS 75/2 and 2.1).

- 5) **A Complete Description of the Subjects and Issues Involved:** The amendment adopts the most recent addenda to the National Board of Boiler and Pressure Vessel Inspectors Inspection Code (1992) and the American Society of Mechanical Engineers Code (1992). It also updates the ASME CSD-1 reference and adds a requirement for Boiler Blowdown.

- 6) **Will this proposed rule replace any emergency rule currently in effect?** No

- 7) **Does this rulemaking contain an automatic repeal date?** No

- 8) **Does this rulemaking contain incorporations by reference?** Yes

- 9) **Are there any other proposed rulemakings pending on this Part?** No

- 10) **Statement of Statewide Policy Objectives:** These rule changes reflect changes in national standards which are generally adopted by all states. Failure to adopt these standards may result in Illinois businesses having to meet a standard that manufacturers no longer use for fabrication of boilers and pressure vessels. A more recent edition of the Inspection Code is due to be released soon; the Board has solicited comments regarding the 1995 Inspection Code at its June meeting and held a meeting with interested parties to review various elements of the 1995 Code.

- 11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Interested parties may submit written comments within 45 days of publication to:

John Pavlou, Chief Counsel  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, Illinois 62703-4259

- 12) **Initial Regulatory Flexibility Analysis:**

- A) **Types of small businesses, small municipalities and not for profit corporations affected:** Fabricators and purchasers of boilers and



## OFFICE OF THE STATE FIRE MARSHAL

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pressure vessels

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements

C) Types of professional skills necessary for compliance: Same as under current rules

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF PROPOSED AMENDMENT

TITLE 41: FIRE PROTECTION  
CHAPTER I: STATE FIRE MARSHAL

## PART 120

BOILER AND PRESSURE VESSEL  
SAFETY

## SUBPART A: DEFINITIONS AND AMENDMENT

Section  
120.4  
120.7  
120.10  
120.11  
120.20  
120.30  
120.41

Forward (Repealed)  
Kindly Observe the Following Briefs and Avoid Unnecessary Inconvenience (Repealed)  
Definitions  
Incorporation of National Standards  
Administration  
Inspectors, Examinations, Certificate of Competency and Commission  
Special Inspector Trainee (Repealed)

## SUBPART B: CONSTRUCTION, INSTALLATION, INSPECTION, MAINTENANCE, AND USE

Section  
120.100  
120.105  
120.200  
120.205  
120.300  
120.400  
120.500  
120.600  
120.700  
120.800  
120.900

New Installations of Boilers, Miniature Boilers, Heating Boilers and Hot Water Supply Boilers  
Boiler Exemptions  
New Installations of Pressure Vessels  
Pressure Vessel Exemptions  
Existing Installations of Power Boilers  
Existing Installations of Miniature Boilers (Repealed)  
Existing Installations of Heating Boilers and Hot Water Supply Boilers (Repealed)  
Existing Installation of Pressure Vessels  
General Requirements for all Boilers and Pressure Vessels (Repealed)  
Nuclear Power Plant Components (Repealed)  
Flame Safeguard Requirements and Incorporated Standards (Repealed)

## SUBPART C: REPAIR AND ALTERATION

Section  
120.1000  
120.1010  
120.1020  
120.1030  
120.1040  
120.1041

Repairs and Alterations to Boilers and Pressure Vessels by Welding  
Authorization to Repair Boilers and Pressure Vessels  
Issuance and Renewal of the Certificate  
Changes to Certificates of Authorization  
Quality Control Requirements  
Repair and Alteration Requirements

## SUBPART D: STATE SPECIALS

## OFFICE OF THE STATE FIRE MARSHAL

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## Section 120.1100 Procedure for the Issuance of State's Special Permits

## SUBPART E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

- Section
- 120.1200 Authorization for Repair of Safety & Safety Relief Valves
- 120.1210 Authorization to Repair ASME and National Board Stamped Safety and Safety Relief Valves
- 120.1220 Issuance and Renewal of the Certificate
- 120.1240 Changes to Certificates of Authorization
- 120.1250 Repairs to Safety and Safety Relief Valves
- 120.1260 Quality Control System
- 120.1270 Nameplates
- 120.1275 Field Repair
- 120.1280 Performance Testing of Repaired Valves
- 120.1285 Training of Valve Repair Personnel
- 120.1290 ASME "V", "UV" or National Board "VR" Certificate Holders

## SUBPART F: OWNER-USER QUALITY CONTROL REQUIREMENTS

- Section
- 120.1300 Introduction
- 120.1301 Authority and Responsibility
- 120.1305 Organization
- 120.1310 Inservice Inspection Program
- 120.1320 Drawings, Design Calculations, and Specification Control
- 120.1325 Material Control
- 120.1330 Examination and Inspection Program
- 120.1335 Correction of Nonconformities
- 120.1340 Welding
- 120.1345 Nondestructive Examination
- 120.1350 Calibration of Measurement and Test Equipment
- 120.1355 Records
- 120.1360 Inspectors

## APPENDIX A Examples of Repairs and Alterations (Repealed)

## APPENDIX B Record of Welded Repair (Repealed)

AUTHORITY: Implementing the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and authorized by Sections 2 and 2.1 of the Boiler and Pressure Vessel Safety Act (430 ILCS 75/2 and 2.1).

SOURCE: Boiler and Pressure Vessel Safety Act Rules and Regulations adopted at 4 Ill. Reg. 7, p. 126, effective January 31, 1980; codified at 5 Ill. Reg. 10677; amended at 7 Ill. Reg. 6925, effective July 1, 1983; amended at 10 Ill. Reg. 9510, effective July 1, 1985; amended at 11 Ill. Reg. 16587, effective January 1, 1988; amended at 16 Ill. Reg. 6808, effective July 1, 1992; amended

## OFFICE OF THE STATE FIRE MARSHAL

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at 17 Ill. Reg. 14917, effective September 1, 1993; amended at 19 Ill. Reg. 11904, effective August 15, 1995; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: DEFINITIONS AND AMENDMENT

## Section 120.11 Incorporation of National Standards

Where standards are incorporated by reference in this Part, the incorporated material does not include any later editions or amendments.

- a) The Board hereby adopts the following nationally recognized standards and their addenda:

## ASME-GBB-I-1988

Controls-and-Safety-Devices-for  
Automatically-Fired-Boilers  
Part-GB-only-for-boilers  
installed-or-reinstalled-after  
January-17-1991-and-Section-GW-520  
Controls and Safety Devices for  
Automatically Fired Boilers

## ASME CSD-1a-1993

NFPA 8501-92  
NFPA 85-C 1991  
NFPA 85-F 1988  
ASME Boiler and Pressure Vessel Code (1992) with 1992, 1993, 1994  
addenda

## Section I

Power Boilers

## Section II

Material Specifications -- Part A -- Ferrous

## Section II

Material Specifications -- Part B--Nonferrous

## Section II

Material Specifications -- Part C -- Welding Rods  
Electrodes and Fillers Metals

## Section II

Material Specifications -- Part D -- Properties

## Section IV

Heating Boilers

## Section V

Nondestructive Examination

## Section VI

Recommended Rules for Care and Operation of Heating  
Boilers

## Section VII

Recommended Rules for Care of Power Boilers

## Section VIII

Pressure Vessels -- Division 1

Including Appendix M



## OFFICE OF THE STATE FIRE MARSHAL

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## Section VIII

Pressure Vessels -- Division 2 -- Alternative Rules

## Section IX

Welding and Brazing Qualifications

## Section X

Fiberglass -- Reinforced Plastic Pressure Vessels

National Board of Boiler &amp; Pressure Vessel Inspectors

Inspection Code (1992) with 1992, 1993, 1994 addenda

National Board Rules and Recommendations for the Design and

Construction of Boiler Blowoff Systems (1991)

American Petroleum Institute

API-510, Sixth Edition, "API Recommended Practice for

Inspection, Repair, and Rating of Pressure Vessels in

Petroleum Refining Service"

API -- American Petroleum Institute

1220 L Street, Northwest

Washington, D.C. 20005

ASME -- American Society of

Mechanical Engineers

United Engineering Center

345 East 47th Street

New York, New York 10017

NB -- National Board of Boiler &amp;

Pressure Vessel Inspectors

1055 Crupper Avenue

Columbus, Ohio 43229

NFPA -- National Fire Protection

Association

1 Battery March Park

Quincy, Massachusetts 02269-9101

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: The Illinois Liquor Control Commission2) Code Citation: 11 Ill. Adm. Code 1003) Section Numbers: Proposed Action:

100.30 Amendment

100.50 Amendment

100.70 Amendment

100.110 Amendment

100.160 Amendment

100.240 Amendment

100.250 Amendment

100.270 Amendment

100.280 Amendment

100.290 Amendment

100.330 Amendment

4) Statutory Authority: The Liquor Control Act of 1934 [235 ILCS 5].5) A Complete Description of the Subjects and Issues Involved: Section 100.30 - Clarify the cause of action for violation of out-of-state liquor related laws.

Section 100.50 - To update federal citations and eliminate language already included in the Liquor Control Act. To clarify that no licensee shall advertise in violation of State laws or regulations and eliminate the prohibition of advertisements referring to alcoholic content.

Section 100.70 - To update federal citations and to include nonresident dealer in Sections mandating how a manufacturer labels and seals alcoholic product.

Section 100.110 - To require that at least one person eligible to be issued and sign the application for a liquor license be at least 18 years of age.

Section 100.160(e) - Allow pre-mix alcoholic beverages to be brand specific.

Section 100.240(d) - Delete "restaurant" before credit card so that any retail licensee can set up credit card payment.

Section 100.250 - Add clearer language to prohibit a retail licensee from purchasing alcohol from another retail licensee.

Section 100.270 - To allow common purchase and storage of alcoholic liquor for multi-use facilities if all premises have the same Illinois Business

## ILLINOIS LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

## Sales Tax number.

Section 100.280 - Prohibit any person from giving away alcoholic liquor for commercial purposes, except if sampling and test marketing and preapproved by the Commission, and prohibit the use of words such as "free" and "complimentary" in any advertisements.

Section 100.290(a) - Include alcoholic liquor sealed and labeled by a nonresident dealer in addition to a manufacturer.

Section 100.330 - Clarifies advertising and promotional sponsorships allowed pursuant to the Liquor Control Act.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on these proposed amendments may submit them in writing by no later than 45 days after publication of this notice to:

Arabel Alva Rosales  
Executive Director  
Illinois Liquor Control Commission  
100 W. Randolph St., #5-300  
Chicago, IL 60601  
(312) 814-2206

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None.

B) Reporting, bookkeeping or other procedures required for compliance: No additional procedures required.

C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: July, 1995.

## ILLINOIS LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

The full text of the Proposed Amendments begins on the next page:



## ILLINOIS LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE A: ALCOHOL

CHAPTER I: ILLINOIS LIQUOR CONTROL COMMISSION

## PART 100

## THE ILLINOIS LIQUOR CONTROL COMMISSION

Section	
100.5	Penalties
100.10	Definitions
100.20	Employment of Minors
100.30	Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation
100.40	Local Liquor Control Commissioner's Report (Repealed)
100.50	Advertising
100.60	Geographical Territories
100.70	Labels
100.80	Bonds (Repealed)
100.90	Credit to Retail Licensees
100.100	Internal Changes Within Corporations
100.110	Application Forms (Repealed)
100.120	Railroad Licenses
100.130	Books and Records
100.140	Miniatures (Repealed)
100.150	Salvaged Alcoholic Liquors
100.160	Sanitation
100.170	Taps
100.180	Procedure Before Commission on Citations
100.190	Procedure Before Commission on Request for Continuance of Any Hearing
100.200	Wagering Stamps (Repealed)
100.210	Inducements
100.220	Retail Licensee Clubs (Repealed)
100.230	Resumption of Business on Appeal
100.240	Transactions Involving Use of Checks and Their Equivalent
100.250	Transfer of Alcohol
100.260	Uniform Systems of Accounts
100.270	Multi-Use Facilities <del>Fingerprinting-of-Applicants--repealed</del>
100.280	Giving Away of Alcoholic Liquors
100.290	Refilling
100.300	Authorization to Remove Bottles
100.310	Food Service at Park Districts
100.320	Airplanes
100.330	Advertising
100.340	Petitions for the Adoption, Amendment or Repeal of a Rule
100.350	Procedures For Filing Appeals From an Order of the Local Liquor Control Commissioner
100.360	Review on Record -- Certification of Ordinance
100.370	Procedures Before the Commission

## ILLINOIS LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

100.380 Ex Parte Consultations

100.390 Review on Record -- Certification of Ordinance (Renumbered)

100.400 Procedures Before the Commission (Renumbered)

100.410 Ex Parte Consultations (Renumbered)

AUTHORITY: Implementing and authorized by Section 3-12(2) of the Liquor Control Act [235 ILCS 5/3-12(2)].

SOURCE: Rules and Regulations of the Illinois Liquor Commission, amended March 31, 1977; amended July 7, 1977; amended at 3 Ill. Reg. 12, p. 65, effective March 22, 1979; codified at 5 Ill. Reg. 10706; amended at 8 Ill. Reg. 6041, effective April 19, 1984; amended at 12 Ill. Reg. 19387, effective November 7, 1988; amended at 18 Ill. Reg. 4811, effective March 9, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 100.30 Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation

a) No person holding a license issued by this Commission shall in the conduct of the licensed business or upon the licensed premises:

- 1) Violate any federal ~~Federal~~ law or Illinois statute ~~State-Statute~~ or out-of-state liquor related law.
- 2) Violate any city, village, town or county ordinance or resolution regulating the sale of alcoholic liquors.
- 3) Suffer or permit a violation of any federal ~~Federal~~ law, out-of-state liquor related law or law of the State of Illinois, or of any rule of this Commission.
- 4) Suffer or permit a violation of the city, village, town or county ordinance or resolution regulating the sale of alcoholic liquor.

b) Violations may be proved by evidence that the licensee has been convicted of a violation of a federal ~~Federal~~ law, out-of-state liquor related law or a law of the State of Illinois in the conduct of the licensed business or upon the premises, or has been found guilty of violating any city, village, town or county ordinance or resolution regulating the sale of alcoholic liquors.

c) Proof before this Commission of facts which establish a violation of any federal ~~Federal~~ law, State ~~state~~ statute, city, village, town or county ordinance or resolution or rule of this Commission, shall be sufficient cause for revocation or suspension of any license issued by the Commission, irrespective of whether or not a conviction has been obtained in any court.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 100.50 Advertising

a) General Requirements:

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Federal Alcohol Administration Regulation No. 4 relating to the advertising of wine (27 C.F.R. Section 4 [1995] ~~†1993†~~, no subsequent dates or editions), Federal Alcohol Administration Regulation No. 5 relating to the advertising of distilled spirits (27 C.F.R. Section 5 [1995] ~~†1993†~~, no subsequent dates or editions) and Federal Alcohol Regulation No. 7 relating to the advertising of malt beverages (27 C.F.R. Section 7 [1995] ~~†1993†~~, no subsequent dates or editions), are hereby adopted and made a part of this Section for advertising of wine, distilled spirits and malt beverages insofar as the federal Federal regulations are not contrary to, or inconsistent with, the provisions of the laws of Illinois or this Part.

## b) Advertising:

- 1) No licensee ~~manufacturer, distributor, importer, distributor, or~~ ~~retailer~~, or the agent or representative thereof, may advertise any alcoholic beverage in any medium intended for circulation, viewing or listening within this State unless such advertisement is in conformity with the provisions of this Part.
- 2) Such advertisement shall conform to the approved label upon the immediate container of the alcoholic liquor so advertised.
- 3) ~~Such advertisement shall not refer to the alcoholic content of~~ ~~malt beverages.~~
- 3) ~~††~~ Such advertisements shall not contain illustrations of children nor shall they make use of any material which would make a special appeal to juveniles.
- 4) ~~††~~ Such advertisements shall not contain any material which is false or untrue in any respect.
- c) ~~Cost-adjustment-factor:~~
- 1) ~~A cost-adjustment-factor will be used to annually update the dollar limitations set forth in Section 6-6†† and ††† of the Act †1995-†1995-††~~
- 2) ~~The cost-adjustment factor is a percentage equal to the change in the Bureau of Labor Statistics Consumer Price Index or 5% whichever is greater.~~

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 100.70 Labels

- a) No manufacturer, nonresident dealer, distributor or importing distributor shall sell or deliver any package or container containing alcoholic liquor manufactured or delivered by such person unless the same is labeled in conformity with this Section.
- b) General requirements and Restrictions:
  - 1) Federal Alcohol Administration Regulations Nos. 4, 5 and 7 relating to the labeling of wine, distilled spirits and malt beverages (27 C.F.R. Section 4, 5, and 7, April 1995 ~~†1993†~~, not including any later amendments or editions), are hereby adopted

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and made a part of this Section Rule for labeling every package or container of wine, distilled spirits and malt beverages, with the following exceptions:

- A) Wine includes all products as defined in Section 1-3.03 of the Act (235 ILCS 5/1-3.03) and Section 100.10(h) of this Part.
- B) Alcoholic content must be stated on all wine labels.
- 2) The aforesaid regulations Regulations shall apply to wine, distilled spirits and malt beverages packaged purely for intrastate commerce within the State of Illinois to the same extent as though intended for interstate or foreign shipment.
- 3) No manufacturer, nonresident dealer, distributor or importing distributor shall affix any label to any package or container containing alcoholic liquor for sale or delivery in the State of Illinois until such label has been submitted to and approved by the federal Federal government. Such manufacturer, nonresident dealer, distributor or importing distributor shall submit to the Illinois Liquor Control Commission a photostatic copy of the federal Federal label approval.
- 4) No package or container containing alcoholic liquor labeled as "whiskey" or "gin" may be imported into, delivered or sold in the State of Illinois unless the entire alcoholic content thereof, except flavoring materials, is a distillate of fermented mash of grain or mixtures of grains. Packages or containers of alcoholic liquor of the type of whiskey or gin not conforming to the requirement must be labeled "imitation whiskey" or "imitation gin", as the case may be.
- 5) Wine Labels
  - A) Wine labels must contain the name and address of the manufacturer or the bottler of the product.
  - B) For the purpose of this Section, the use of an assumed trade name which has been registered with the Clerk of the County in which the manufacturer or bottler is located, is acceptable.
- 6) Malt Beverage Labels
  - A) Malt beverage labels must contain the name and address of the brewery which manufactured or canned or bottled the product.
  - B) For the purpose of this Section, the use of an assumed trade name which has been registered with the Clerk of the County in which the manufacturer or bottler is located, is acceptable.
- 7) Distilled Spirits Labels
  - A) Labels of all alcoholic liquors other than wine and malt beverages must contain either the phrase "Bottled By" or "Distilled By" (or other descriptive identification of the manufacturer of the product) followed by the name and address of the bottler or manufacturer, as the case may be.



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- 8) For the purpose of this Section, the use of an assumed trade name which has been registered with the Clerk of the County in which the manufacturer or bottler is located, is acceptable.
- 9) No statement of age shall be made with respect to gins, cordials, liqueurs or specialties.
- 10) No person shall sell or offer for sale in this State any bottle, barrel, keg or other container of beer which shall have affixed thereto any label or statement showing the alcoholic content thereof.
- 11) The Commission shall withhold approval of any label if it has reasonable cause to believe that the wording or design contained on the label may, in any manner, tend to deceive the purchaser as to the true nature of such alcoholic liquor.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.110 Application Forms (Repeated)**

At least one person eligible to be issued and to sign the application for a liquor license must be 18 years of age or older (e.g., officer, director, stockholder, manager, agent or partner).

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.160 Sanitation**

- a) All licensees must conduct their business in premises which are at all times kept clean and sanitary. This applies not only to licensed premises, but to places of storage as well. This includes also the place of storage for materials and equipment used in the manufacture of alcoholic liquor.
- b) Each retailer dispensing draught beer or wine shall have coils and other equipment used in drawing draught beer or wine cleaned at least once every week in some manner or means, either chemical or mechanical. The use of steam or hot water alone is not permissible. A record shall be kept of the dates when the cleaning was done, signed by the person who actually performed the cleaning.
- c) Any manufacturer, importing distributor or distributor who pays for the cleaning of coils of any retailer is in violation of 235 ILCS 5/6-5.
- d) No licensed manufacturer or importing distributor shall fill or refill any container of alcoholic liquor unless such person possesses upon the licensed premises adequate and sanitary equipment for cleaning, washing and sterilizing such container, and use such equipment before filling or refilling a container.

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- e) ~~Pre-mixed--alcoholic--beverages--must--not--be--brand--specific--but--of--the generic--type--Pre-mixed alcoholic beverages and their containers must comply with all sanitation requirements as found in this Section, along with all prohibitions against refilling as found in Section 100.290(c).~~ All pre-mix dispensing containers or systems must be drained, contents disposed of, and thoroughly cleaned at least once every week. For mechanical systems a record shall be kept on the premises as to the dates the cleaning was done, signed by the person who actually performed the cleaning.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.240 Transactions Involving Use of Checks and Their Equivalent**

- a) ~~No person shall sell or furnish alcoholic liquor at retail to any person on credit or on a passbook, or order on a store, or in exchange for any goods, wares or merchandise, or in payment for any services rendered. The use, however, of money orders, traveler's checks, drafts or checks or the equivalent of any of the foregoing shall not be deemed the extension of credit within the meaning of the foregoing provisions if not postdated and if deposited and collected in due course promptly.~~
- b) ~~The use of credit cards or other authorizations, irrespective of form, when presented to and honored by a retail licensee for payment for alcoholic liquor consumed at retail on the premises, shall be deemed equivalent to the use of bank checks or bank drafts, if the retail licensee honoring such credit cards or authorizations receives payment in due course from such agency on a non-recourse basis.~~
- c) ~~Payment in cash by the retail licensee shall mean payment in legal tender as provided by the United States Code, checks (including Certified checks, Cashier's checks, Teller's checks or traveler's checks), drafts and electronic transfer of funds, provided the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquor.~~
- d) ~~The use of restaurant credit cards issued by a restaurant retail licensee, when presented to and honored by a restaurant retail licensee for payment for meals and alcoholic liquor consumed at retail on the premises, shall be deemed equivalent to the use of bank checks or bank drafts, if the restaurant retail licensee honoring such credit cards or authorizations has on file for all restaurant credit card holders a current, valid major credit card. If payment for the alcoholic beverages is not received in due course from the restaurant credit card holder, then the restaurant retail licensee must charge the current, valid, major credit card in its file.~~

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 100.250 Transfer of Alcohol

The holder of a retail license for the privilege of selling alcoholic liquors at retail on the premises specified in such license, for use or consumption, is hereby restricted to such sale from the licensed premises only and is not permitted to sell, purchase or transfer such alcoholic liquor to any other licensed premises or to any other retail licensee.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 100.270 Multi-Use Facilities ~~Fingerprinting of Applicants (Repeated)~~

A multi-use facility, such as a hotel, conference center, stadium, and theater, which has been issued more than one local and State liquor license but has an identical Illinois Business Retailer's Occupational Tax number, may purchase and store alcoholic liquor at one central location within the multi-use facility.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 100.280 Giving Away of Alcoholic Liquors

- a) No licensee, individual, partnership or corporation shall give away any alcoholic liquor for commercial purposes or in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products.
- b) ~~No licensee shall give or offer to give away alcoholic liquor in connection with the sale of non-alcoholic products or to promote the sale of non-alcoholic products.~~
  - b) ~~et~~ No licensee, individual, partnership, or corporation shall advertise or promote in any way, whether on or off licensed premises, any of the practices prohibited under subsection (a) or ~~or~~ ~~the~~ above. This includes, but is not limited to, advertisements using the words "free" or "complimentary" with alcoholic liquor.
- c) Subsection (a) above shall not apply to preapproved sampling and test marketing if conducted in accordance with guidelines established by the Commission.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 100.290 Refilling

No retail licensee shall offer for sale, or possess on said licensed premises:

- a) Any original package of alcoholic liquor which contains any kind or quality of alcoholic liquor other than that which has been sealed and

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labeled by the manufacturer or nonresident dealer of alcoholic liquor, to contain and to convey said alcoholic liquor.

- b) Any original package of alcoholic liquor to which there has been added any water or other substance.
- c) Any bottles, casks, or other containers containing alcoholic liquor which contain any deleterious, contaminated, filthy, putrid substance or insects.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 100.330 Advertising

- a) Pursuant to Sections 6-4, 6-5, and 6-6 of the Act [235 ILCS 5/6-4, 6-5, and 6-6], no retail licensee or entity having more than a 5% interest in a retail licensee shall have any direct or indirect interest in or control of any advertising or promotional company which receives funds directly or indirectly from, or for the account of, any manufacturer, non-resident dealer, broker, distributor, importing distributor or foreign importer of alcoholic beverages; nor shall any manufacturer, non-resident dealer, broker, distributor, importing distributor or foreign importer make any payment, direct or indirect, to any retailer, ~~retailer-cooperative~~ or any other entity which provides advertising, or promotional or display services for retailers company, in consideration of any advertising or promotional efforts of any kind not allowed under the Illinois Liquor Control Act or the rules and regulations of the Commission ~~conspiring with the name of any alcoholic beverage product with the name of any retailer-cooperative.~~
- b) Nothing herein shall prohibit any manufacturer, non-resident dealer, distributor, importing distributor, or foreign importer from sponsoring an event at a venue which sole purpose is to host live entertainment, provided that no indirect or direct payment is made to the retailer and that any reference to the retailer in any advertising is incidental to the event itself.
- c) Subsections (a) and (b) above do not apply to a person holding a special event retailer's license (not-for-profit).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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1) Heading of the Part: Definitions and General Provisions2) Code Citation: 35 Ill. Adm. Code 2113) Section Number: Proposed action:

211.4250 Amendment  
 211.4260 Amendment  
 211.4610 Amendment

4) Statutory authority: 415 ILCS 5/9, 9.1, 10, 27 and 28.5.5) A complete description of the subjects and issues involved:

A more detailed description is contained in the Board's supplemental proposed opinion and order of August 3, 1995, in R95-16, which supplemental proposed opinion and order is available from the address below. Section 9.1(e) of the Environmental Protection Act (415 ILCS 5/9.1(e)) provides that Sections 5-35 and 5-40 of the Administrative Procedure Act [5 ILCS 100/5-35 and 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

The Board adopted a proposed opinion and order on July 7, 1995 proposing to amend the definition of volatile organic material (VOM) to correspond with amendments to the federal definition of volatile organic compound (VOC), essentially the same material) adopted by U.S. EPA which appeared in the Federal Register during the period January 1 through June 30, 1995. During this period, U.S. EPA amended its regulations as follows:

60 Fed. Reg. 31633 (June 16, 1995) adding one compound (acetone) to the list of those exempted

U.S. EPA added acetone to the list of chemical species that are exempted from the definition of VOM and, hence, are exempted from regulation for control of ozone precursors. Alternative names for this compound are 2-propanone and dimethylketone. The Board proposed amendment of Section 211.7150 to add acetone to the list of excluded compounds. A Notice of Proposed Amendments for those amendments appeared in the August 4, 1995 issue of the *Illinois Register*, at 19 Ill. Reg. 11297.

On July 18, 1995, the Illinois Environmental Protection Agency (Agency) filed a request for additional revisions. The Agency asked the Board to add supplemental amendments to those proposed on July 7, 1995. For the purposes of public comment, the Board decided to grant the Agency's request and propose supplemental amendments to the definitions of "organic material", "organic solvent", and "petroleum liquid", exactly as suggested by the Agency.

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The Board has scheduled a combined public hearing on the proposed R95-16 amendments of July 7, 1995 and August 4, 1995. That hearing is scheduled to occur as follows:

1:30 p.m., Wednesday, September 6, 1995  
 Pollution Control Board, Conference Room  
 100 West Randolph Street, Suite 11-500  
 Chicago, Illinois

For further information, contact the hearing officer, Michael J. McCambridge, at 312-814-6924. Obtain a copy of the supplemental opinion and order of the Board from Victoria Agyeman, 312-814-3620.

6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference?

No. Although the pre-existing text of Section 211.4610 includes incorporations of federal regulations by reference, none of those incorporations are affected by these amendments.

9) Are there any other amendments pending on this Part? Yes

Section numbers	Proposed action	Illinois Register citation
211.7150	Amendment	August 4, 1995, 19 Ill. Reg. 11297

10) Statement of statewide policy objectives:

This rulemaking is mandated by Section 9.1(e) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 8 of that Act. This rulemaking would not impose a mandate on units of local government. Rather, this proceeding could relax an existing mandate to the extent that any unit of local government may be involved in the emission of acetone in such a way that it is subject to the volatile organic material emissions regulations.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R95-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board

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State of Illinois Center, Suite 11-500  
100 W. Randolph St.  
Chicago, IL 60601

The Board will conduct a public hearing on these proposed amendments, as required by section 110 of the federal Clean Air Act, 42 U.S.C. 7410, because this proceeding would entail a state implementation plan (SIP) revision. The hearing has not yet been scheduled, but the hearing officer will issue an order setting the time and location for the hearing. All persons on the notice list for this matter will receive a copy of that order.

For further information, contact the hearing officer, Michael J. McCambridge, at 312-814-6924.

Obtain a copy of the supplemental opinion and order of the Board from Victoria Aggeman, 312-814-3620.

12) Initial regulatory flexibility analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: August 8, 1995.

B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses that engage in activities that cause the emission of VOM, and more specifically, those that emit the single compound (acetone) to which the new exemptions will apply. Emissions of this material will no longer be considered as emissions of VOM, so that they will no longer be subject to VOM emission limitations and monitoring, recordkeeping, and reporting requirements.

C) Reporting, bookkeeping or other procedures required for compliance:

The existing rules and proposed amendments require extensive reporting, bookkeeping, and other procedures, including the preparation of annual reports, emissions analyses, and maintenance of operating records. Emissions of these materials will no longer be considered as emissions of VOM, so that they will no longer be subject to VOM emission limitations and monitoring, recordkeeping, and reporting requirements.

D) Types of professional skills necessary for compliance:

Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

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13) Regulatory Agenda on which this rulemaking was summarized:

January 1995

The full text of the proposed amendments begins on the next page:



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## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE B: AIR POLLUTION

## CHAPTER I: POLLUTION CONTROL BOARD

## SUBCHAPTER C: EMISSION STANDARDS AND LIMITATIONS

## FOR STATIONARY SOURCES

## PART 211

## DEFINITIONS AND GENERAL PROVISIONS

## SUBPART A: GENERAL PROVISIONS

## Section

211.101 Incorporations by Reference  
211.102 Abbreviations and Conversion Factors

## SUBPART B: DEFINITIONS

## Section

211.121 Other Definitions  
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211.130 Accelacota  
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211.370 Air Pollutant  
211.390 Air Pollution  
211.410 Air Pollution Control Equipment  
211.430 Air Suspension Coater/Dryer  
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211.470 Air Assisted Airless Spray  
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211.490 Annual Grain Through-Put  
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211.510 Application Area  
211.530 Architectural Coating  
211.550 As Applied  
211.560 As-Applied Fountain Solution  
211.570 Asphalt  
211.590 Asphalt Prime Coat  
211.610 Automobile

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211.650 Automobile or Light-Duty Truck Refinishing  
211.660 Automotive/Transportation Plastic Parts  
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211.680 Bakery Oven  
211.685 Basecoat/Clearcoat System  
211.690 Batch Loading  
211.695 Batch Operation  
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211.730 Binders  
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211.790 Bulk Gasoline Plant  
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211.2030	Enhanced Under-the-Cup Fill
211.2050	Ethanol Blend Gasoline
211.2070	Excess Air
211.2090	Excessive Release
211.2110	Existing Grain-Drying Operation
211.2130	Existing Grain-Handling Operation
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 211.4050 Non-Contact Process Water Cooling Tower  
 211.4055 Non-Flexible Coating  
 211.4065 Non-Heatset  
 211.4070 Offset  
 211.4090 One Hundred Percent Acid  
 211.4110 One-Turn Storage Space  
 211.4130 Opacity  
 211.4150 Opaque Stains  
 211.4170 Open Top Vapor Degreasing  
 211.4190 Open-Ended Valve  
 211.4210 Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility  
 211.4230 Organic Compound  
 211.4250 Organic Material and Organic Materials  
 211.4260 Organic Solvent  
 211.4270 Organic Vapor  
 211.4290 Oven  
 211.4310 Overall Control  
 211.4330 Overvarnish  
 211.4350 Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility  
 211.4370 Owner or Operator  
 211.4390 Packaging Rotogravure Printing  
 211.4410 Packaging Rotogravure Printing Line  
 211.4430 Pail  
 211.4450 Paint Manufacturing Source or Paint Manufacturing Plant  
 211.4470 Paper Coating  
 211.4490 Paper Coating Line  
 211.4510 Particulate Matter  
 211.4530 Parts Per Million (Volume) or PPM (Vol)  
 211.4550 Person  
 211.4590 Petroleum  
 211.4610 Petroleum Liquid  
 211.4630 Petroleum Refinery  
 211.4650 Pharmaceutical  
 211.4670 Pharmaceutical Coating Operation  
 211.4690 Photochemically Reactive Material  
 211.4710 Pigmented Coatings  
 211.4730 Plant  
 211.4740 Plastic Part  
 211.4750 Plasticizers  
 211.4770 PW-10  
 211.4790 Pneumatic Rubber Tire Manufacture  
 211.4810 Polybasic Organic Acid Partial Oxidation Manufacturing Process  
 211.4830 Polyester Resin Material(s)  
 211.4850 Polyester Resin Products Manufacturing Process

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat
211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5530	Repair
211.5550	Repair Coat
211.5570	Repaired
211.5590	Residual Fuel Oil
211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet

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211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating
211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5870	Screening
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine
211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6410	Storage Tank or Storage Vessel
211.6430	Styrene Devolatilizer Unit



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211.6450	Styrene Recovery Unit
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6790	Turnaround
211.6810	Two-Piece Can
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6890	Vacuum Producing System
211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated
211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)
211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid
211.7190	Wash Coat
211.7210	Wastewater (Oil/Water) Separator
211.7230	Weak Nitric Acid Manufacturing Process
211.7250	Web

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## NOTICE OF PROPOSED AMENDMENTS

211.7270	Wholesale Purchase - Consumer
211.7290	Wood Furniture
211.7310	Wood Furniture Coating
211.7330	Wood Furniture Coating Line
211.7350	Woodworking
211.7400	Yeast Percentage

APPENDIX A	Rule into Section Table
APPENDIX B	Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 10, 27 and 28.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

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## NOTICE OF PROPOSED AMENDMENTS

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART B: DEFINITIONS

**Section 211.4250 Organic Material and Organic Materials**

- a) "Organic materials" means, for the purposes of Section 9.4 of the Act, any chemical compound of carbon, including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, including polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans and polynuclear aromatic hydrocarbons but excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbide, metallic carbide, metallic carbonates and ammonium carbonate are not organic materials.
- b) "Organic material" means, for the purpose of 35 Ill. Adm. Code 215, 218 and 219, any chemical compound of carbon including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents, but excluding methane, acetone, carbon monoxide, carbon dioxide, carbonic acid, metallic carbide, metallic carbide, metallic carbonates, and ammonium carbonate.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 211.4260 Organic Solvent**

"Organic solvent" means a solvent that consists of organic mineral spirits, methyl ethyl ketone, ~~acetone~~, ethanol, ether, toluene, or other organic materials other than soap, detergent, surfactants, lubricating oil, wax, vegetable oil, grease, glycerin, or animal fat. For purposes of 35 Ill. Adm. Code 201, Subpart F, a solvent which is a mixture shall be an organic solvent if it contains more than 5 percent by volume of such organic materials.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 211.4610 Petroleum Liquid**

"Petroleum liquid" means crude oil, condensate or any finished or intermediate product manufactured at a petroleum refinery, but not including acetone and Number 2 through Number 6 fuel oils as specified in ASTM D-396-69 (incorporated by reference in 35 Ill. Adm. Code 218.112 and 219.112), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-71 (incorporated by reference in 35 Ill. Adm. Code 218.112 and 219.112) or diesel fuel oils Numbers 2-D and 4-D, as specified in ASTM D-975-68 (incorporated by reference in 35 Ill. Adm. Code 218.112 and 219.112).

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(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medical Assistance Programs2) Code Citation: 89 Ill. Adm. Code 1203) Section Numbers: Proposed Action:

120.11 Amendment  
 120.64 Amendment  
 120.310 Amendment  
 120.390 Amendment  
 120.391 Amendment  
 120.392 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments change eligibility requirements for pregnant women and for children born October 1, 1983, or later, to receive medical coverage under the MANG(P) program. The proposed rule eliminates MANG(P) coverage for pregnant women and children born October 1, 1983, or later, who are aliens not legally admitted for permanent residence. As a result of this rulemaking, to receive Medicaid, pregnant women and children born October 1, 1983, or later, must now be a citizen or an alien legally admitted for permanent residence.

Under Federal law 42 U.S.C. 1396b(v), ineligible noncitizens are only eligible for emergency medical assistance. Ineligible noncitizens are comprised of three groups of persons. First, those that entered the country legally but were not admitted for permanent residence and continue to be here under that status. This group includes persons in the United States under a student or tourist visa, exchange visitors, temporary workers, intercompany transferees, visitors for business or pleasure, fiancées of citizens, diplomats and embassy personnel. The second group includes these same individuals who remain here illegally after their visas have expired. The third, and the largest group, are those aliens who entered and remain here illegally.

During May 1994, the Department was able to identify 5,042 ineligible noncitizens receiving MANG(P) coverage (3,045 pregnant women and 1,997 children). This number is an estimate. The number could indeed be higher. The costs for FY'95 for these individuals was \$6,647,328.

The Department provides emergency medical assistance to ineligible noncitizens who meet all eligibility requirements for Medicaid except citizenship/alienage requirements. This is done in accordance with federal law. Some pregnant women and children will be able to be covered for only emergency medical situations if they are no longer eligible for

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MANG(P). The Social Security Act and Medicaid regulations provide for payment for "emergency labor and delivery" for noncitizen pregnant women and contain no provision for the coverage of routine prenatal care. The estimated annual savings based on FY'94 costs and utilization updated to FY'95 ranges from \$8.3M to \$14.7M.

Companion amendments are being proposed to 89 Ill. Adm. Code 140.7 and 140.9.

6) Will these proposed amendments replace emergency amendments currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
120.80	Amendment	June 30, 1995 (19 Ill. Reg. 8512)
120.379	Amendment	May 19, 1995 (19 Ill. Reg. 6770)
120.386	Amendment	May 19, 1995 (19 Ill. Reg. 6770)
120.387	Amendment	May 19, 1995 (19 Ill. Reg. 6770)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunna  
 Bureau of Rules and Regulations  
 Illinois Department of Public Aid  
 100 South Grand Ave. E., 3rd Floor  
 Springfield, IL 62762  
 (217) 524-3215.

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance:  
None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The reasons for this rulemaking are fully described above in the complete description of the subjects and issues involved. This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 120

## MEDICAL ASSISTANCE PROGRAMS

## SUBPART A: GENERAL PROVISIONS

Section  
120.1

## Incorporation By Reference

## SUBPART B: ASSISTANCE STANDARDS

## Section

- 120.10 Eligibility For Medical Assistance
- 120.11 Eligibility For Medical Assistance For Pregnant Women and For Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)
- 120.12 Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women
- 120.20 MANG(AABD) Income Standard
- 120.30 MANG(C) Income Standard
- 120.31 MANG(P) Income Standard
- 120.40 Exceptions To Use Of MANG Income Standard
- 120.50 AMI Income Standard

## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

## Section

- 120.60 All Cases Other Than Intermediate Care, Skilled Nursing Care, DMHDD, DMHDD Approved Community Based Settings and Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy
- 120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD - MANG(AABD) and All Other Licensed Medical Facilities
- 120.62 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643
- 120.63 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings
- 120.64 Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)
- 120.65 Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community - Integrated Living Arrangements

## SUBPART D: SUPPLEMENTARY MEDICAL INSURANCE



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Section	
120.70	Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72	Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73	Eligibility for Medical Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
120.74	Qualified Medicare Beneficiary (QMB) Income Standard
120.75	Specified Low-Income Medicare Beneficiary (SLIB) Income Standard
120.76	Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section	Recipient Restriction Program
120.80	

## SUBPART F: MIGRANT MEDICAL PROGRAM

Section	Migrant Medical Program
120.90	Income Standards
120.91	

## SUBPART G: AID TO THE MEDICALLY INDIGENT

Section	Elimination of Aid to The Medically Indigent
120.200	Client Cooperation (Repealed)
120.208	Citizenship (Repealed)
120.210	Residence (Repealed)
120.211	Age (Repealed)
120.212	Relationship (Repealed)
120.215	Living Arrangement (Repealed)
120.216	Supplemental Payments (Repealed)
120.217	Institutional Status (Repealed)
120.218	Foster Care Program (Repealed)
120.224	Social Security Numbers (Repealed)
120.225	Unearned Income (Repealed)
120.230	Exempt Unearned Income (Repealed)
120.235	Education Benefits (Repealed)
120.236	Unearned Income In-Kind (Repealed)
120.240	Earmarked Income (Repealed)
120.245	Lump Sum Payments and Income Tax Refunds (Repealed)
120.250	Protected Income (Repealed)
120.255	Earned Income (Repealed)
120.260	Budgeting Earned Income (Repealed)
120.261	Exempt Earned Income (Repealed)
120.262	Recognized Employment Expenses (Repealed)
120.270	Income From Work/Study/Training Program (Repealed)
120.271	Earned Income From Self-Employment (Repealed)
120.272	

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120.273	Earned Income From Roomer and Boarder (Repealed)
120.275	Earned Income In-Kind (Repealed)
120.276	Payments from the Illinois Department of Children and Family Services (Repealed)
120.280	Assets (Repealed)
120.281	Exempt Assets (Repealed)
120.282	Asset Disregards (Repealed)
120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

## SUBPART H: MEDICAL ASSISTANCE - NO GRANT

Section	Client Cooperation
120.308	Caretaker Relative
120.309	Citizenship
120.310	Residence
120.311	Age
120.312	Blind
120.313	Disabled
120.314	Relationship
120.315	Living Arrangements
120.316	Supplemental Payments
120.317	Institutional Status
120.318	Assignment of Rights to Medical Support and Collection of Payment
120.319	Cooperation in Establishing Paternity and Obtaining Medical Support
120.320	Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.321	Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
120.322	Suspension of Paternity Establishment and Obtaining Medical Support
120.323	Upon Finding Good Cause
120.324	Health Insurance Premium Payment (HIPP) Program
120.325	Foster Care Program
120.326	Social Security Numbers
120.327	Unearned Income
120.330	Budgeting Unearned Income
120.332	Exempt Unearned Income
120.335	Education Benefits
120.336	Incentive Allowance
120.338	Unearned Income In-Kind
120.340	Court Ordered Child Support Payments of Parent/Step-Parent
120.342	Earmarked Income
120.345	Medicaid Qualifying Trusts
120.346	

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120.347	Treatment of Trusts
120.350	Lump Sum Payments and Income Tax Refunds
120.355	Protected Income
120.360	Earned Income
120.361	Budgeting Earned Income
120.362	Exempt Earned Income
120.364	Earned Income Exemption
120.366	Exclusion From Earned Income Exemption
120.370	Recognized Employment Expenses
120.371	Income From Work/Study/Training Programs
120.372	Earned Income From Self-Employment
120.373	Earned Income From Roomer and Boarder
120.375	Earned Income In Kind
120.376	Payments from the Illinois Department of Children and Family Services
120.379	Assessment of Assets
120.380	Assets
120.381	Exempt Assets
120.382	Asset Disregard
120.383	Deferral of Consideration of Assets
120.384	Spend-down of Assets (MANG)
120.385	Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)
120.386	Property Transfers Occurring On or Before August 10, 1993
120.387	Property Transfers Occurring On or After August 11, 1993
120.390	Persons Who May Be Included In the Assistance Unit
120.391	Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG and Children Born October 1, 1983, or Later (MANG(P) Program)
120.392	Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)
120.393	Pregnant Women and Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
120.395	Payment Levels for MANG
120.399	Redetermination of Eligibility

TABLE A Value of a Life Estate and Remainder Interest

TABLE B Life Expectancy

AUTHORITY: Implementing Articles III, IV, V, VI and VII and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and VII and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg.

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16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041 effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982, amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding sections being codified with no substantive



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change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987 for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective July 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendments at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2,

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1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: ASSISTANCE STANDARDS

**Section 120.11 Eligibility For Medical Assistance For Pregnant Women and For Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)**

- a) Pregnant Women who do not qualify as Mandatory Categorically Needy (MANG(P) Program)
- 1) Eligibility for medical assistance exists for a pregnant woman of any age who does not qualify as mandatory categorically needy (Social Security Act (U.S.C. 1902 (a)(10)(A)(i) and 1905(n))); who meets the following eligibility requirements:
    - A) cooperation in establishing eligibility as described in Section 120.308; who meets the non-financial requirements of the program in Section 120.211; and
    - B) citizenship/alliance status described in Section 120.310; and
    - C) residency as described in Section 120.311; and

D)† whose countable monthly income does not exceed the MANG(P) Income Standard (see Section 120.31).
  - 2) The pregnant woman shall be eligible to receive medical assistance until sixty--t 60† days following the last day of pregnancy. The sixty† 60† day medical coverage continues through

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the last day of the calendar month in which the ~~sixty~~-~~t~~ 60~~t~~ days period ends. The ~~sixty~~-~~t~~ 60~~t~~ days medical coverage period shall be provided for all pregnant women determined eligible for medical assistance under subsection (a)(1) of this Section ~~above~~ including pregnant women who are no longer pregnant at the time of application because the woman had a miscarriage or an abortion or signed an adoption agreement.

- 3) When a pregnant woman is determined eligible for medical assistance under (a)(1) of this Section ~~above~~, income changes occurring after the eligibility determination are not considered through the 60 day postpartum ~~postpartum~~ period following the last day of pregnancy.

- b) Children born October 1, 1983, or later, who do not qualify as Mandatory Categorically Needy (MANG(P) Program)

- 1) Eligibility for medical assistance exists for children born October 1, 1983, or later, who do not qualify as mandatory categorically needy (Social Security Act (U.S.C.1902 (a)(10)(A)(i) and 1905(n)) who meet the following eligibility requirements:

- A) cooperation in establishing eligibility as described in Section 120.308; ~~who meet the non-financial requirements of the program in Section 120.211; and~~
- B) citizenship/alienage status as described in Section 120.310;
- C) residency as described in Section 120.311; and
- D) whose countable monthly income exceeds the MANG(C) or MANG(AABD) income standards (Sections 120.20 and 120.30) but does not exceed the MANG(P) income standard (see Section 120.31).

- 2) Children born October 1, 1983, or later, shall be eligible to receive medical assistance under subsection (b)(1) of this Section ~~above~~:

- A) from the date of birth through ~~the~~ age ~~nineteen~~-~~t~~ 19~~t~~ if an application is approved for medical assistance; or

- C) until countable monthly income exceeds the MANG(P) income standard (see Section 120.31), whichever comes first.

- 3) When the Department becomes aware of the birth of a child or children ~~childrent~~ to a woman determined eligible under subsection (a)(1) of this Section ~~above~~, the child shall be deemed to have applied for medical assistance under subsection (b)(1) of this Section ~~above~~, without written request. The child or children ~~childrent~~ shall be eligible to receive medical assistance for the same period of time the mother is receiving medical assistance.

- 4) When the child's mother becomes ineligible for medical assistance under subsection (a) of this Section ~~above~~, the infant retains eligibility for medical assistance until:

- A) up to age one ~~tt~~ year; or

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- B) through ~~the~~ age ~~nineteen~~-~~t~~ 19~~t~~ if an application is approved for medical assistance; or
- C) countable monthly income exceeds the MANG(P) income standard (see Section 120.31), whichever comes first; or
- D) if an application is later approved for financial assistance, the child is ineligible for medical assistance under this subsection.

- 5) When a child is determined eligible for medical assistance under this subsection and there is a change in income which causes countable monthly income to exceed the MANG(P) income standard (see Section 120.31), the child is ineligible for medical assistance under this subsection. Countable income must then be compared to the MANG(C) or MANG(AABD) income standard (see Section 120.20, 120.30) to determine the spend-down amount, if any.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

### Section 120.64 Pregnant Women and Children Born October 1, 1983, or Later Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)

- a) The following subsections apply to MANG(P) clients:

The eligibility period for a MANG(P) client shall begin with:

- 1) the first day of the month of application; or;
- 2) the first day of any month prior to the month of application if the client so desires up to three months prior to the month of application; or:

- 3) the first day of the month after the month of application; or;
- 4) the first day of a month a pregnant woman and/or child born October 1, 1983, or later meets the requirements of Sections 120.11, and 120.31, 120.308, 120.310 and 120.311.

- b) The pregnant woman shall be eligible to receive medical assistance until ~~sixty~~-~~t~~ 60~~t~~ days following the last day of pregnancy. The ~~sixty~~-~~t~~ 60~~t~~ day medical coverage continues through the last day of the calendar month in which the ~~sixty~~-~~t~~ 60~~t~~ day period ends. The ~~sixty~~-~~t~~ 60~~t~~ day medical coverage period shall be provided for all pregnant women determined eligible for medical assistance under Section 120.11(a)(1) of this Section ~~above~~ including pregnant women who are no longer pregnant at the time of application because the woman had a miscarriage or an abortion or signed an adoption agreement.

Children shall be eligible to receive medical assistance:

- 1) from the date of birth of October 1, 1983, or later, for up to and including age ~~nineteen~~-~~t~~ 19~~t~~; or
- 2) up to and including age ~~nineteen~~-~~t~~ 19~~t~~ if an application is approved for medical assistance; or



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- 3) until countable monthly income exceeds the MANG(P) income standard (see Section 120.31), whichever comes first.
- AGENCY NOTE: A newborn child is automatically eligible to receive medical assistance for the same period of time the mother is receiving medical assistance. Eligibility for the newborn with automatic eligibility shall continue up to age one, without regard to income changes.
- d) Covered services received during the entire eligibility period will be paid by the Department (see 89 Ill. Adm. Code 140.3).
- e) A redetermination of eligibility for MANG(P) will be made every twelve + 12+ months for children born October 1, 1983, or later.
- f) The client is responsible to report any changes that occur during the eligibility period which might affect eligibility for MANG(P). If changes in income or family composition occur which would make the client ineligible for MANG(P), appropriate action shall be taken by the Department, including evaluation of eligibility for other programs or termination of eligibility for medical assistance. Income changes occurring after a pregnant woman is determined eligible for MANG(P) coverage are not considered through the 60 day post-partum period following the last day of pregnancy.
- g) MANG(P) clients shall be eligible without a spend-down obligation amount.
- h) A review of case eligibility for MANG(C) will be conducted for a pregnant woman and continued MANG(P) eligibility for the newborn child will be conducted during the second month of the sixty--t 60+ day extended medical coverage period. If eligible, the case shall be transferred by the Department to the appropriate program without interruption in benefit eligibility. If ineligible, the Department shall notify the client in writing.
- i) A review of case eligibility for MANG(C) will be conducted when a child is determined ineligible for MANG(P). If the child is eligible for MANG(C), the case shall be transferred by the Department without interruption in benefit eligibility. If ineligible, written notification shall be provided to the client.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART H: MEDICAL ASSISTANCE - NO GRANT

## Section 120.310 Citizenship

To be eligible for assistance, an individual shall be either a U.S. citizen, or an alien legally admitted for permanent residence, or an alien admitted under color of law according to the following definitions:

- a) Citizenship status -- Persons born in the U.S., or in its possessions, are U.S. citizens. Citizenship can also be acquired by naturalization through court proceedings, or by certain persons born in a foreign

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country of U.S. citizen parent(s).

## b) Aliens

- 1) Alienage status -- Persons residing in the U.S., but not citizens by birth or naturalization are considered aliens. The following types of aliens may receive assistance, if otherwise eligible:
- A) Immigrants -- aliens admitted for permanent residence.
- B) Refugees -- Persons admitted pursuant to the Refugee Act of 1980 (8 U.S.C. 1157 et seq.).
- C) Political asylees.
- D) Persons granted temporary parole (includes Cuban/Haitian Entrants whose status is pending).
- E) Applicants for asylum from any country.
- F) Aliens who have continuously resided in the U.S. since January 1, 1972.
- G) Aliens granted stays of deportation by court order, statute or regulation, or by individual determination of the Immigration and Naturalization Service (INS) pursuant to 8 U.S.C. 1105(a) or pursuant to INS Operations Instruction 243.3.
- H) Aliens granted deferred action status pursuant to INS Operations Instruction 103.1a (ii).
- I) Aliens residing in the United States under order of supervision pursuant to 8 U.S.C. 1252(d).
- J) Aliens whose deportation has been withheld pursuant to 8 U.S.C. 1253(h).
- K) Aliens granted suspension of deportation pursuant to 8 U.S.C. 1254.
- L) Persons permanently residing in the United States with the approval of the INS or who are cooperating with INS regarding their status and who are not under a direct final order of deportation.
- 2) It does not include the following persons living in the United States under a student visa or tourist visa or persons who are exchange visitors, temporary workers, intercompany transferees, visitors for business, fiancées of U.S. citizens, diplomats, treaty traders or treaty investors (Such persons are not "permanently residing here" so do not meet the citizenship requirement):
- A) Persons in the U.S. under a student visa or tourist visa;
- B) Persons who are exchange visitors;
- C) Temporary workers including agricultural contract workers (migrants);
- D) Intercompany transferees;
- E) Visitors for business or pleasure;
- F) Fiancées of U.S. citizens;
- G) Foreign government representatives on official business, their families and employees;
- H) Treaty traders and investors and their families;

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- 1) International organization representatives and personnel, their families and employees;  
 2) Members of foreign press, radio, film or other information media and their families;  
 3) IRCA noncitizens who are age 18 and over who are not pregnant and who are subject to a 5 year penalty period; and  
 4) Undocumented noncitizens (persons for whom the INS has not documented their entry into the U.S.).

3) Notwithstanding the provisions of subsections (b)(1) and (2) of this Section above, an alien is eligible for medical assistance if such medical care and services are necessary for the treatment of an emergency medical condition of the alien, and the alien otherwise meets the income, asset and categorical requirements of the AABD MAG program or AFDC MAG program. An emergency medical condition is a medical condition (including emergency labor and delivery) of sufficient severity (including severe pain) that the absence of immediate medical attention could result in:

- A) placing the alien's health in serious jeopardy;  
 B) serious impairments to bodily functions; or  
 C) serious dysfunction of any organ or part (42 U.S.C. 1396(b)(v)).

c) Lawful Resident Status -- persons residing in the U.S. if granted lawful resident status under the Immigration Reform and Control Act of 1986 (Section 201(h)(3)(A) and (B) of P.L. 99-603) are eligible for the following types of assistance, if otherwise eligible:

- 1) AABD MAG;  
 2) AFDC MAG, if:  
 A) the individual is a child under age 18; or  
 B) the individual is a pregnant woman.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 120.390 Persons Who May Be Included In the Assistance Unit

a) MANG(C)

- 1) The assistance unit must include at least one eligible child or only an adult(s) caretaker relative whose eligibility is based on a child who is otherwise eligible except the child receives SSI. No more than two of the following individuals may be included as adults:

- A) The caretaker relative;  
 B) The parent of an eligible child;  
 C) The needy relative other than the caretaker relative who provides at least one of the following services:  
 i) child care which enables the caretaker relative to work on a full-time (at least 100 hours per month) paid basis outside the home;

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- ii) care for an incapacitated family member in the home;  
 iii) child care that enables a caretaker relative to receive training full-time;  
 iv) child care that enables a caretaker relative to attend high school or General Educational Development (GED) classes full-time; or  
 v) child care for a period not to exceed two months that enables the caretaker relative to participate in a Project Chance (AFDC) work program such as Job Search.

2) The eligibility of a child in an assistance unit depends on that child's lack of parental support or care. All eligible dependent children and stepchildren in a family unit shall be included in a single case, except in two-parent households where there are children of differing parentage, some of whom lack parental support or care because of the unemployment of a parent. In such a circumstance, two separate assistance cases shall be established: one for both adults and children whose eligibility derives from their parent's unemployment and one for the remaining children. The provisions of this Section shall not affect the right of a child who is a parent to receive assistance in a separate case as a caretaker relative for his or her dependent child.

b) MANG(AABD)

The eligible person only shall be included in the assistance unit.

c) MANG(P)

The assistance unit shall only include pregnant women and children born October 1, 1983, or later who meet the eligibility requirements of Sections 120.308, 120.310 and 120.311 Section-120-11.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later (MANG(P) Program)

a) Individuals Under Age 18

- 1) Medical assistance shall be provided to individuals under age eighteen--t 18 who do not qualify for AFDC under the definition of dependent child as defined in 89 Ill. Adm. Code 101.20 and 112.61 through 112.64. However, such individuals must meet the eligibility requirements and other provisions of 89 Ill. Adm. Code 112.10, 112.20, and 112-Subpart C.

2) If nonexempt ~~non-exempt~~ countable income (see Sections 120.360 through ~~the~~ 120.375) is equal to or less than the appropriate MANG (AFDC) standard (see Section 120.30), the individual is eligible for payment of his/her allowable medical care costs (see 89 Ill. Adm. Code 140.3).

3) Persons whose income exceeds the appropriate MANG (AFDC) standard



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are eligible for medical assistance each month incurred or paid medical care costs equal the amount of excess nonexempt non-exempt income over the standard. When income exceeds the MANG (AFDC) standard, eligibility begins on the day in the month incurred or paid medical care costs equals excess monthly income. Eligibility ends on the last day of the same month.

- b) Children Born October 1, 1983, or Later (MANG(P) Program)  
Medical assistance shall be provided to children born October 1, 1983, or later, who do not qualify as mandatory categorically needy (Social Security Act (42 U.S.C. 1902(a)(10)(A)(i) and 1905(n))) and meet the eligibility requirements of 89 Ill. Adm. Code 120.11, 120.31, 120.64, 120.308, 120.310 and 120.311.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy (MANG(P) Program)**

- a) Pregnant women who would not be eligible for AFDC/AFDC-MANG if the child were already born

1) Medical assistance shall be provided to women of any age who are pregnant and meet the asset standards (see Sections 120.380 through 120.382) of the AFDC medical assistance program and who would not be eligible for AFDC if the child were already born because:

- A) the father is not absent, and  
B) neither parent is incapacitated (see 89 Ill. Adm. Code 112.62) and the principal wage earner does not meet the Department's definition of unemployment (see 89 Ill. Adm. Code 112.64).

- 2) Medical assistance for up to sixty-t 60t days following the last day of pregnancy.

A) Medical assistance shall be provided for the woman and newborn child for sixty-t 60t days following the last of the pregnancy. The sixty-t 60t day medical coverage continues through the last day of the calendar month in which the sixty-t 60t day period ends.

- B) In order for a pregnant woman to qualify for the extended sixty-t 60t day medical coverage, an AFDC MANG application must have been filed prior to the date the pregnancy ended.

- b) Pregnant women who do not qualify as mandatory categorically needy (MANG(P) Program)

1) Medical assistance shall be provided to women of any age who do not qualify as mandatory categorically needy (Sections 1902(e)(10)(A)(i) and 1905(n) of the Social Security Act) and meet the eligibility requirements of Sections 120.11, 120.31, and

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- 120.64, 120.308, 120.310 and 120.311).  
2) Medical assistance under the MANG(P) Program shall be provided for the woman and newborn child or children ~~childrent~~ for up to sixty-t 60t days following the last day of the pregnancy. The sixty-t 60t day medical coverage continues through the last day of the calendar month in which the sixty-t 60t day period ends.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:  
140.7 Amendment  
140.9 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) (305 ILCS 5/12-13)

5) Complete Description of the Subjects and Issues Involved: These proposed amendments change eligibility requirements for pregnant women and for children born October 1, 1983, or later, to receive medical coverage under the MANG(P) program. The proposed rule eliminates MANG(P) coverage for pregnant women and children born October 1, 1983, or later, who are aliens not legally admitted for permanent residence. As a result of this rulemaking, to receive Medicaid, pregnant women and children born October 1, 1983, or later, must now be a citizen or an alien legally admitted for permanent residence.

Under Federal law 42 U.S.C. 1396b(v), ineligible noncitizens are only eligible for emergency medical assistance. Ineligible noncitizens are comprised of three groups of persons. First, those that entered the country legally but were not admitted for permanent residence and continue to be here under that status. This group includes persons in the United States under a student or tourist visa, exchange visitors, temporary workers, intercompany transferees, visitors for business or pleasure, fiancées of citizens, diplomats and embassy personnel. The second group includes these same individuals who remain here illegally after their visas have expired. The third, and the largest group, are those aliens who entered and remain here illegally.

During May 1994, the Department was able to identify 5,042 ineligible noncitizens receiving MANG(P) coverage (3,045 pregnant women and 1,997 children). This number is an estimate. The number could indeed be higher. The costs for FY'95 for these individuals was \$6,647,328.

The Department provides emergency medical assistance to ineligible noncitizens who meet all eligibility requirements for Medicaid except citizenship/alienage requirements. This is done in accordance with federal law. Some pregnant women and children will be able to be covered for only emergency medical situations if they are no longer eligible for MANG(P). The Social Security Act and Medicaid regulations provide for payment for "emergency labor and delivery" for noncitizen pregnant women and contain no provision for the coverage of routine prenatal care. The estimated annual savings based on FY'94 costs and utilization updated to

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- FY'95 ranges from \$8.3M to \$14.7M.
- Companion amendments are being proposed to 89 Ill. Adm. Code 120.11, 120.64, 120.310, 120.390, 120.391 and 120.392.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.3	Amendment	June 23, 1995 (19 Ill. Reg. 8066)
140.5	Amendment	June 23, 1995 (19 Ill. Reg. 8066)
140.27	Amendment	May 5, 1995 (19 Ill. Reg. 6268)
140.80	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.82	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.84	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.440	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.443	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.444	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.445	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.446	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.447	Amendment	July 7, 1995 (19 Ill. Reg. 8938)
140.461	Amendment	June 16, 1995 (19 Ill. Reg. 7806)
140.500	Amendment	July 14, 1995 (19 Ill. Reg. 9386)
140.504	Amendment	July 14, 1995 (19 Ill. Reg. 9386)
140.505	Repeal	July 14, 1995 (19 Ill. Reg. 9386)
140.535	Amendment	July 21, 1995 (19 Ill. Reg. 10390)
140.642	Amendment	April 14, 1995 (18 Ill. Reg. 5397)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Judy Umuna, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave. E., 3rd Floor, Springfield, Illinois 62762 (Phone: (217) 524-3215).

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by



DEPARTMENT OF PUBLIC AID  
NOTICE OF PROPOSED AMENDMENTS  
TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140  
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

140.1

140.2

140.3

Incorporation By Reference

Medical Assistance Programs

Covered Services Under the Medical Assistance Programs for AFDC,

140.4

Covered Medical Services Under AFDC-MANG for non-pregnant persons who

are 18 years of age or older (Repealed)

Covered Medical Services Under GA

Medical Services Not Covered

Medical Assistance Provided to Individuals Under the Age of Eighteen

Who Do Not Qualify for AFDC and Children Born 10/1/83 or Later

(MANG(P) Program) Under Age Eight

Medical Assistance For Qualified Severely Impaired Individuals

Medical Assistance for a Pregnant Woman Who Would Not Be

Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already

Born Or Who Do Not Qualify As Mandatory Categorically Needy (MANG(P)

Program)

Medical Assistance Provided to Incarcerated Persons

140.10

140.11

140.12

140.13

140.14

140.15

140.16

140.17

140.18

140.19

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

140.11

140.12

140.13

140.14

140.15

140.16

140.17

140.18

140.19

Enrollment Conditions for Medical Providers

Participation Requirements for Medical Providers

Definitions

Denial of Application to Participate in the Medical Assistance

Program

Recovery of Money

Termination or Suspension of a Vendor's Eligibility to Participate in

the Medical Assistance Program

Suspension of a Vendor's Eligibility to Participate in the Medical

Assistance Program

Effect of Termination on Individuals Associated with Vendor

Application to Participate or for Reinstatement Subsequent to

Termination, Suspension or Barring

DEPARTMENT OF PUBLIC AID  
NOTICE OF PROPOSED AMENDMENTS  
Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS  
100/5-40].

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent regulatory agendas because: The reasons for this rulemaking are fully described above in the complete description of the subjects and issues involved. This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.20 Submittal of Claims  
 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (OMBs)  
 140.22 Magnetic Tape Billings  
 140.23 Payment of Claims  
 140.24 Payment Procedures  
 140.25 Overpayment or Underpayment of Claims  
 140.26 Payment to Factors Prohibited  
 140.27 Assignment of Vendor Payments  
 140.28 Record Requirements for Medical Providers  
 140.30 Audits  
 140.31 Emergency Services Audits  
 140.32 Prohibition on Participation, and Special Permission for Participation  
 140.33 Publication of List of Terminated, Suspended or Barred Entities  
 140.35 False Reporting and Other Fraudulent Activities  
 140.40 Prior Approval for Medical Services or Items  
 140.41 Prior Approval in Cases of Emergency  
 140.42 Limitation on Prior Approval  
 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained  
 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice  
 140.72 Voucher Advance Payment and Expedited Payments  
 140.73 Drug Manual (Recodified)  
 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section  
 140.80 Hospital Provider Fund  
 140.82 Developmentally Disabled Care Provider Fund  
 140.84 Long Term Care Provider Fund  
 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund  
 140.95 Hospital Services Trust Fund  
 140.96 General Requirements (Recodified)  
 140.97 Special Requirements (Recodified)  
 140.98 Covered Hospital Services (Recodified)  
 140.99 Hospital Services Not Covered (Recodified)  
 140.100 Limitation on Hospital Services (Recodified)  
 140.101 Transplants (Recodified)  
 140.102 Heart Transplants (Recodified)  
 140.103 Liver Transplants (Recodified)  
 140.104 Bone Marrow Transplants (Recodified)  
 140.110 Disproportionate Share Hospital Adjustments (Recodified)  
 140.116 Payment for Inpatient Services for GA (Recodified)  
 140.117 Hospital Outpatient and Clinic Services (Recodified)  
 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)  
 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)  
 140.203 Limits on Length of Stay by Diagnosis (Recodified)  
 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)  
 140.350 Copayments (Recodified)  
 140.360 Payment Methodology (Recodified)  
 140.361 Non-Participating Hospitals (Recodified)  
 140.362 Pre July 1, 1989 Services (Recodified)  
 140.363 Post June 30, 1989 Services (Recodified)  
 140.364 Prepayment Review (Recodified)  
 140.365 Base Year Costs (Recodified)  
 140.366 Restructuring Adjustment (Recodified)  
 140.367 Inflation Adjustment (Recodified)  
 140.368 Volume Adjustment (Repealed)  
 140.369 Groupings (Recodified)  
 140.370 Rate Calculation (Recodified)  
 140.371 Payment (Recodified)  
 140.372 Review Procedure (Recodified)  
 140.373 Utilization (Repealed)  
 140.374 Alternatives (Recodified)  
 140.375 Exemptions (Recodified)  
 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)  
 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.391 Definitions (Recodified)  
 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section  
 140.400 Payment to Practitioners, Nurses and Laboratories  
 140.410 Physicians' Services  
 140.411 Covered Services By Physicians  
 140.412 Services Not Covered By Physicians  
 140.413 Limitation on Physician Services  
 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians  
 140.416 Optometric Services and Materials  
 140.417 Limitations on Optometric Services  
 140.418 Department of Corrections Laboratory  
 140.420 Dental Services  
 140.421 Limitations on Dental Services  
 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Section	Items - Dentists	Pharmacy
140.425	Podiatry Services	
140.426	Limitations on Podiatry Services	
140.427	Requirement for Prescriptions and Dispensing of	Pharmacy
	Items - Podiatry	
140.428	Chiropractic Services	
140.429	Limitations on Chiropractic Services (Repealed)	
140.430	Independent Laboratory Services	
140.431	Services Not Covered by Independent Laboratory	
140.432	Limitations on Independent Laboratory Services	
140.433	Payment for Laboratory Services	
140.434	Record Requirements for Independent Laboratories	
140.435	Nurse Services	
140.436	Limitations on Nurse Services	
140.440	Pharmacy Services	
140.441	Pharmacy Services Not Covered	
140.442	Prior Approval of Prescriptions	
140.443	Filling of Prescriptions	
140.444	Compounded Prescriptions	
140.445	Prescription Items (Not Compounded)	
140.446	Over-the-Counter Items	
140.447	Reimbursement	
140.448	Returned Pharmacy Items	
140.449	Payment of Pharmacy Items	
140.450	Record Requirements for Pharmacies	
140.452	Mental Health Clinic Services	
140.453	Definitions	
140.454	Types of Mental Health Clinic Services	
140.455	Payment for Mental Health Clinic Services	
140.456	Hearings	
140.457	Therapy Services	
140.458	Prior Approval for Therapy Services	
140.459	Payment for Therapy Services	
140.460	Clinic Services	
140.461	Clinic Participation, Data and Certification Requirements	
140.462	Covered Services in Clinics	
140.463	Clinic Service Payment	
140.464	Healthy Moms/Healthy Kids Managed Care Clinics	
140.465	Speech and Hearing Clinics (Repealed)	
140.466	Rural Health Clinics	
140.467	Independent Clinics	
140.469	Hospice	
140.470	Home Health Services	
140.471	Home Health Covered Services	
140.472	Types of Home Health Services	
140.473	Prior Approval for Home Health Services	
140.474	Payment for Home Health Services	
140.475	Medical Equipment, Supplies and Prosthetic Devices	

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Section	Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made
140.476	Limitations on Equipment, Supplies and Prosthetic Devices
140.477	Prior Approval for Medical Equipment, Supplies and Prosthetic Devices
140.478	Limitations, Medical Supplies
140.479	Equipment Rental Limitations
140.480	Payment for Medical Equipment, Supplies and Prosthetic Devices
140.481	Family Planning Services
140.482	Limitations on Family Planning Services
140.483	Payment for Family Planning Services
140.484	Healthy Kids Program
140.485	Limitations on Medichex Services (Repealed)
140.486	Healthy Kids Program Timeliness Standards
140.487	Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures
140.488	Medical Transportation
140.490	Limitations on Medical Transportation
140.491	Payment for Medical Transportation
140.492	Psychological Services
140.495	Payment for Psychological Services
140.496	Hearing Aids
140.497	
	Section
140.500	Group Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Continuation of Payment Because of Threat To Life
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered by Department Payment
140.512	Utilization Control
140.513	Utilization Review Plan (Repealed)
140.514	Certifications and Recertifications of Care
140.515	Management of Recipient Funds--Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds--Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels

## SUBPART E: GROUP CARE

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)
140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Nurse's Aide Training and Testing
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports-Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs
140.552	Nursing and Program Costs
140.553	General Administrative Costs
140.554	Component Inflation Index
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs
140.565	Kosher Kitchen Reimbursement
140.566	Out-of-State Placement
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Capital Rate Calculation
140.572	Total Capital Rate
140.573	Other Capital Provisions
140.574	Capital Rates for Rented Facilities
140.575	Newly Constructed Facilities (Repealed)
140.576	Renovations (Repealed)
140.577	Capital Costs for Rented Facilities (Renumbered)
140.578	Property Taxes
140.579	Specialized Living Centers
140.580	Mandated Capital Improvements (Repealed)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.581	Qualifying as Mandated Capital Improvement (Repealed)
140.582	Cost Adjustments
140.583	Campus Facilities
140.584	Illinois Municipal Retirement Fund (IMRF)
140.590	Audit and Record Requirements
140.642	Screening Assessment for Long Term Care and Alternative Residential Settings and Services
140.643	In-Home Care Program
140.645	Medical and In-Home Care For Disabled Persons Under Age 21 (Model Waiver)
140.646	Reimbursement for Developmental Training (DT) Services for Individuals with Developmental Disabilities Who Reside in Long Term Care (ICF AND SNF) and Residential (ICF/MR) Facilities
140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations
140.835	Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: MEDICAID PARTNERSHIP PROGRAM

Section	General Description
140.850	Definition of Terms
140.855	Covered Services
140.860	Sponsor Qualifications
140.865	Sponsor Responsibilities
140.870	Department Responsibilities
140.875	Provider Qualifications
140.880	Provider Responsibilities
140.885	Payment Methodology
140.890	Contract Monitoring
140.895	Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.896	

SUBPART G: HEALTHY MOMS/HEALTHY KIDS PROGRAM

Section	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.900	



DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TABLE D	Schedule of Dental Procedures
TABLE E	Time Limits for Processing of Prior Approval Requests
TABLE F	Podiatry Service Schedule
TABLE G	Travel Distance Standards
TABLE H	Areas of Major Life Activity
TABLE I	Staff Time and Allocation for Training Programs (Recodified)
TABLE J	HSA Grouping (Repealed)
TABLE K	Services Qualifying for 10% Add-On
TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On
TABLE M	Enhanced Rates for Healthy Moms/Healthy Kids Provider Services

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI, VII, and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective June 1, 1984; maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)
140.920	General Description
140.922	Covered Services
140.924	Provider Participation Requirements
140.926	Client Eligibility
140.928	Client Enrollment and Program Components
140.930	Reimbursement
140.932	Payment Authorization for Referrals

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section	Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
140.940	Definition of Terms (Recodified)
140.942	Notification of Negotiations (Recodified)
140.944	Hospital Participation in ICARE Program Negotiations (Recodified)
140.946	Negotiation Procedures (Recodified)
140.948	Factors Considered in Awarding ICARE Contracts (Recodified)
140.950	Closing an ICARE Area (Recodified)
140.952	Administrative Review (Recodified)
140.954	Payments to Contracting Hospitals (Recodified)
140.956	Admitting and Clinical Privileges (Recodified)
140.958	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.960	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.962	Contract Monitoring (Recodified)
140.964	Transfer of Recipients (Recodified)
140.966	Validity of Contracts (Recodified)
140.968	Termination of ICARE Contracts (Recodified)
140.970	Hospital Services Procurement Advisory Board (Recodified)
140.972	Medicheck Recommended Screening Procedures (Repealed)

TABLE A	Health Service Areas
TABLE B	Capital Cost Areas
TABLE C	

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 5981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.912 and 140.912 Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.205 and 147.205 Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16932, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended



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at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993;

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emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10222, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

Section 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Born 10/1/83 or Later (MANG(P) Program) Under-Age-Right

- a) Individuals Under Age Eighteen (†8†)
  - 1) Medical assistance shall be provided to individuals under the age of eighteen who do not qualify for AFDC under the definition of dependent child as defined in 89 Ill. Adm. Code 101.20 and 112.60 through 112.64. However, such individuals must meet the eligibility requirements and other provisions of 89 Ill. Adm. Code 112.10, 112.20, 112. Subparts C and D, 112.303, 112.304 and 112.307 through 112.309.
  - 2) If nonexempt non-exempt countable income is equal to or less than the appropriate MANG (AFDC) standard, the individual is eligible for payment of his or her allowable medical care costs.
  - 3) Persons whose income exceeds the appropriate MANG (AFDC) standard are eligible for medical assistance each month incurred or paid medical care costs equals the amount of excess nonexempt non-exempt income over the standard. When income exceeds the MANG (AFDC) standard, eligibility begins on the day in the month incurred or paid medical care costs equals excess monthly income. Eligibility ends on the last day of the same month.
- b) For children born 10/1/83 or later (MANG(P) Program), medical children Under-Age-†8†--Medical assistance shall be provided to those

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children--under--age--six--(6) who do not qualify' as mandatory categorically needy (Social Security Act (42 U.S.C. 1902(a)(10)(A)(i) and 1905(n)) and meet the eligibility requirements of 89 Ill. Adm. Code 120.11, 120.31, and 120.64, 120.308, 120.310 and 120.311.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 140.9 Medical Assistance for a pregnant woman who would not be categorically eligible for AFDC/AFDC-MANG if the child were already born or who do not qualify as mandatory categorically needy (MANG(P) Program)

a) Pregnant women who would not be categorically eligible for AFDC/AFDC-MANG if the child were already born

1) Medical assistance will be provided to applicants of any age who are pregnant and meet the asset standards of the AFDC medical assistance program and who would not be eligible for AFDC if the child were already born because:

A) the father is not absent, and  
B) neither parent is incapacitated and the principal wage earner does not meet the Department's definition of unemployment (see 89 Ill. Adm. Code 112.64).

2) Medical Assistance for up to sixty (60) days following the last day of pregnancy

A) Medical assistance shall be provided for the woman and newborn child for 60 days following the last day of the pregnancy. The sixty (60) day medical coverage continues through the last day of the calendar month in which the sixty (60) day period ends.

B) In order for a pregnant woman to qualify for the extended sixty (60) day medical coverage, an AFDC MANG application must have been filed prior to the date the pregnancy ended.

b) Pregnant women who do not qualify as mandatory categorically needy (MANG(P) Program)

1) Medical assistance shall be provided to women of any age who do not qualify as mandatory categorically needy (Sections 1902(a)(10)(A)(i) and 1905(n) of the Social Security Act) and meet the eligibility requirements of 89 Ill. Adm. Code 120.11, 120.31, and 120.64, 120.308, 120.310 and 120.311.

2) Medical assistance shall be provided for the woman and newborn child or children child(ren) for up to sixty (60) days following the last day of the pregnancy. The sixty (60) day medical coverage continues through the last day of the calendar month in which the sixty (60) day period ends.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Rights and Responsibilities

2) Code Citation: 89 Ill. Adm. Code 102

3) Section Number: Proposed Action:  
102.21 New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, Ch. 23, par. 12-13) [305 ILCS 5/12-13] and P. L. 103-31.

5) Complete Description of the Subjects and Issues Involved: Pursuant to provisions of Public Law 103-31, these proposed amendments are necessary to implement procedures for voter registration. The National Voter Registration Act of 1993 requires the Department to make it easier for individuals to register to vote. Assistance must be provided in completing voter registration forms and in transmitting those completed forms to the appropriate election official.

As a result of these proposed amendments, the opportunity to register to vote will be given at each application for assistance and at each recertification of Food Stamp benefits. The opportunity to register to vote will be made to all clients, age 18 and over, who have signed the assistance application and who are present at the eligibility interview.

Department staff will not:

1. seek to influence an applicant's political preference or party registration;

2. display any political preference or party allegiance;

3. make any statement or take any action to discourage an applicant from registering to vote; or

4. make any statement or take any action to lead an applicant to believe that a decision to register or not to register to vote will affect the availability of assistance. This rulemaking establishes that Department staff will collect completed voter registration forms and forward the forms to the State election official no later than 10 days after the date of acceptance. In addition, the Department will keep confidential records of the number of persons choosing to complete a voter registration form and report those numbers to the State Board of Election.

6) Will these proposed amendments replace emergency amendments currently in effect? Yes



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- 1) Heading of the Part: Annual Audited Financial Report  
2) Code Citation: 50 Ill. Adm. Code 925  
3) Section Number: Adopted Action:

925.10 Amended  
925.20 Amended  
925.30 Amended  
925.40 Amended  
925.50 Amended  
925.60 Amended  
925.70 Amended  
925.80 Amended  
925.90 Amended  
925.100 Amended  
925.110 New Section  
925.115 Amended  
925.120 Repealed  
925.130 Amended  
925.140 Amended  
925.150 Amended

- 4) Statutory Authority: Implementing Sections 132.1, 136, 401, and 402 of the Illinois Insurance Code (Ill. Rev. Stat. 1991, ch. 73, pars. 744.1, 748, 1013 and 1014) [215 ILCS 5/132.1, 136, 401, and 402], and Section 2007 of the Limited Health Service Organization Act (Ill. Rev. Stat. 1991, ch. 73, par. 1502-7) [215 ILCS 130/2007], and Section 2-7 of the Health Maintenance Organization Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1407) [215 ILCS 125/2-7], and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1991, ch. 73, par. 1013) [215 ILCS 5/401].

- 5) Effective Date of Amendment: August 14, 1995  
6) Does this amendment contain an automatic repeal date? No  
7) Does this amendment contain incorporations by reference? No  
8) Date filed in Agency's Principal Office: August 14, 1995  
9) Notice of Proposal Published in Illinois Register:  
March 10, 1995, 19 Ill. Reg. 2587  
10) Has JCAR issued a Statement of Objections to this Amendment? No  
11) Difference(s) between proposal and final version:

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- 7) Does this rulemaking contain an automatic repeal date? No  
8) Do these proposed amendments contain incorporations by reference? No  
9) Are there any other proposed amendments pending on this Part? No  
10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Judy Umunna, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave. E., 3rd Floor, Springfield, Illinois 62762 (Phone: (217) 524-3215). The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None  
B) Reporting, bookkeeping or other procedures required for compliance: None  
C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1995

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page .

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- a) In the table of contents of the DOI version, change "925.120" to "925.115".
- b) In the table of contents of the DOI version, change "925.130" back to "925.120".
- c) In the table of contents of the DOI version, change "925.130 Examinations" to "925.130 Examinations [Repealed]".
- d) In the Main Authority note of the DOI version, change "5/132.1, 136" to "5/132.1 through 132.7, 136".
- e) Within the Main Authority note of the DOI version, delete all Illinois Revised Statutes citations.
- f) Section 925.10 of the DOI version, delete all Illinois Revised Statutes citations. Also change "[215 ILCS 5/132.1, 136, 401 and 402" to "[215 ILCS 5/132.1 through 132.7, 136, 401 and 402]".
- g) All Section sources notes have been indented 5 spaces from the left margin pursuant to 1 Ill. Adm. Code 100.300(a)(2).
- h) Section 925.20 three lines up from the bottom of the DOI version, add a comma following "Part".
- i) Section 925.30 - "Accountant", on the seventh line of the DOI version, change "they are" to "the accountant is." Also three lines up from the bottom change "it" to "accountant".
- j) Section 925.30 - Change "Independent," to "Independent". Also on the first line of the DOI version, delete the comma following "Part".
- k) Section 925.30 - "Insurer", delete all references to the Illinois Revised Statutes within this definition. On the third line delete the comma following "(h)", On the sixth line delete "(B)".
- l) Section 925.40(b) - On the second line of the DOI version add "(30)" following "thirty". Also, add "a" following "upon". On the third line add "of" following "accountant". On the fourth line add "a" following "and". Finally, on the seventh line of the DOI version, add a comma following "to" and delete the comma following "God". Add "fortuitous or unintentional" following "God" on the same line.
- m) Section 925.50(a) - On line six of the DOI version add "report" following "the" and strike "then ended". Also four lines up from the bottom delete the comma following "permitted".
- n) Section 925.50(b)(6) - The subparagraph identifiers have been changed

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- from "i) and ii)" to "A) and B)".
- o) Section 925.50(b)(7) - On the sixth line of the DOI version, strike the comma following "Director".
- p) Section 925.60(a) - On the second line of the DOI version, add a comma following "must".
- q) Section 925.60(b) - On the first line of the DOI version, add a comma following the first reference to "accountant". On the fifth line change "of" to "after". On the seventh line delete the comma following "accountant". Six lines up from the bottom change "they" to "the accountant". Also change "their" to "its" on the same line. And finally on the second to the last line strike "he" and add "it".
- r) Section 925.60(c) - On the seventeenth line of the DOI version, change "them" to "it". On the next line change "their" to "its". Also, four lines up from the bottom change "they" to "it" and change "does" to "does".
- s) Section 925.70(b) - On the first line of the DOI version change "herein" to "in this Section".
- t) Section 925.70(c) - On the first line add "(c)" following "subsection".
- u) Section 925.70(d) - On the third line of the DOI version, delete the comma following "Report".
- v) Section 925.70(e) - On the second line of the DOI version, delete the comma following "Code" and also delete the Illinois Revised Statutes citation. On the third line of the DOI version, add a comma following the citation.
- w) Section 925.80(b) - On the fourth line of the DOI version, add "or combined" following "consolidated".
- x) Section 925.90(a) - On the second line of the DOI version, change "hereof" to "of this Part".
- y) Section 925.90(b) - Three lines up from the bottom of the DOI version, add a comma following "e.g.".
- z) Section 925.100(a) - On the fourth line of the DOI version, add a comma following "days". On the fifth line, delete the comma, and on the sixth line, add the comma following "committee".
- aa) Section 925.100(b) - On the second line of the DOI version, delete



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the comma following "above". On the third line change "of" to "after".

bb) Section 925.100(d) - On the fourth line of the DOI version, change "their" to "its". Also four lines up from the bottom of the DOI version, change "AU 561" to "AU561".

cc) Section 925.110 - All new text has been moved out to a flush left margin. On the third line of the DOI version change "their" to "its". On the fourth line change "its" to "the insurer's".

dd) Change "Section 925.110" to "Section 925.115".

ee) Section 925.115(b) - On the second line of the DOI version, add a comma following "insurers".

ff) Section 925.115(c) - On the second line of the DOI version change "their" to "its".

gg) Section 925.115(d) - On the second and last line of the DOI version, delete the comma following "agent" and change "925.130" to "925.120".

hh) Section 925.115(e) - On the third line change "in" to "of".

ii) Section 925.115 - In the Section source note change "(Source: Former Section 925.120 renumbered to Section 925.130, and new Section add at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)" to "(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)".

jj) Change "Section 925.120 925.130" back to "Section 925.120".

kk) Section 925.120(a) - Three lines up from the bottom change "their audit" to "its audit". Also on the last line change "their" to "its".

ll) Section 925.120(b) - On the second line of the DOI version, strike the comma following "Part". On the fourth line, strike the comma following "examiners." On the fifth line, change "their" to "its".

mm) Section 925.130 - Change "Section-925.130-Examinations" to "Section 925.130 Examinations (Repealed)".

nn) Section 925.140(b) - On the fourth and sixth line of the DOI version, delete the parenthesis. Also delete all remaining text following "responsibilities".

oo) Section 925.140(c) - On the fifth line change "herein" to "of this

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Part,".

pp) Line 618, Section 925.140(c)(1), four lines up from the bottom of the DOI version, change "925.120" to "925.115".

qq) Section 925.140(c) - In the Section source note change "(Source: Former Section 925.130 repealed, new Section 925.130 renumbered from Section 925.120 and amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)" to "(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)".

rr) Section 925.150 - On the second to the last line of the DOI version, change "Rule" to "Rule Part".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: The Department has undertaken the attached amendments largely to maintain our NAIC (National Association of Insurance Commissioners) accreditation. We are also repealing Part 601 while incorporating these standards within this administrative regulation. The Department has also clarified the intent of these regulatory provisions, and we have made minor language changes for consistency.

16) Information and questions regarding this adopted amendment shall be directed to:

Jim Hanson  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
(217) 782-6284

The full text of the Adopted Amendments begins on the next page.

DEPARTMENT OF INSURANCE  
NOTICE OF ADOPTED AMENDMENTS  
TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 925  
ANNUAL AUDITED FINANCIAL REPORT

Section	
925.10	Authority
925.20	Purpose and Scope
925.30	Definitions
925.40	Filing and Extensions for Filing of Annual Audited Financial Reports
925.50	Contents of Annual Audited Financial Report
925.60	Designation of <del>Independent-Certified-Public</del> Accountant
925.70	Qualifications of <del>Independent-Certified-Public</del> Accountant
925.80	Consolidated or Combined Audits
925.90	Scope of <del>Examination</del> Audit and Report of <del>Independent-Certified-Public</del> Accountant
925.100	Notification of Adverse Financial Condition
925.110	<del>Evaluation-of-Accounting-Procedures-and-System-of</del> Report on Internal Control
925.115	Accountant's Letter of Qualifications
925.120	Definition, Availability and Maintenance of <del>CPA</del> --- <del>Workpapers</del> --- <del>Certified-Public-Accountant</del> Accountant Workpapers
925.130	Examinations (Repealed)
925.140	<del>Application-and-Effective-Date</del> Exemptions
925.150	Severability Provision

AUTHORITY: Implementing Sections 132.1 through 132.7, 136, 401, and 402 of the Illinois Insurance Code [217 ILCS 5/132.1 through 132.7, 136, 401, and 402], and Section 2-7 of the Health Maintenance Organization Act [215 ILCS 125/2-7], and Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007], and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Filed July 9, 1975, effective July 21, 1975; codified at 7 Ill. Reg. 2359; amended at 11 Ill. Reg. 18204, effective October 26, 1987; amended at 19 Ill. Reg. 12229, effective AUG 14 1995.

Section 925.10 Authority

This Part is promulgated by the Director of Insurance pursuant to Sections 132.1 through 132.7, 136, 401, and 402 of the Illinois Insurance Code ~~1985-Stat--1985-ch--73-par-401-and-402~~ [215 ILCS 5/132.1 through 132.7, 136, 401 and 402] and Section 2-7 of the Health Maintenance Organization Act ~~1985-Stat--1985-ch--111-172-par--1497~~ [215 ILCS 125/2-7] and Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007].

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(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

Section 925.20 Purpose and Scope

This Part shall not prohibit, preclude or in any way limit the Director of ~~Insurance~~ from ordering and/or conducting and/or performing examinations of insurers under his jurisdiction in the operations, practices, procedures, or other matters including financial condition and operations of such insurers. Such examinations shall be conducted as currently established and/or performed or to be established and/or performed under the Statutes of the State of Illinois, the Rules of the Illinois Department of Insurance and the practices and procedures of the Illinois Department of Insurance. The purpose of this Part is to improve the ~~Illinois-Insurance-Department's~~ Director's surveillance of the financial condition of insurers by requiring an annual ~~examination~~ audit by ~~Independent-Certified-Public~~ accountants of the financial statements reporting the financial condition position and the results of operations of insurers. Every insurer, as defined in Section 925.30 of this Part, shall be subject to this Part except those insurers exempt under Section 925.140 of this Part.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

Section 925.30 Definitions

"Accountant," ~~"Certified-Public--Accountant--(CPA)---and--Independent-Public-Accountant"~~ means an independent certified public accountant or independent accounting firm ~~who has a license-to-practice-issued-by the-state-in-which-he-resides-or-has-his-principal-place-of-business in good standing with the American Institute of CPAs and all states in which the accountant is licensed to practice. For Canadian and British companies, accountant means a Canadian-chartered or British-chartered accountant generally referred to hereinafter as accountant.~~

"Annual Audited ~~Financial~~ Report Financial Report" means and includes those items specified in Section 925.50 of this Part.

"Director" means the Director of the Illinois Department of Insurance.

"Independent" for purposes of this Part means an accountant who is not affiliated with an insurer.

"Insurer" for the purposes of this Part ~~only~~ means a ~~domestic insurance-company~~ licensed insurer or accredited reinsurer as defined in Section Sections 2(f), (g) and (h) and 173.1 of the Illinois Insurance Code ~~1985-Stat--1985-ch--73-par-614(f)~~ [215 ILCS



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5/2(f), (g) and (h) and 173.1] or a Health Maintenance Organization as defined in Section 1-2(9) of the Health Maintenance Organization Act ~~that--Rev--Stat--1985--ch--111--1-27--par--14027 [215 ILCS 125/1-2(9)]~~ or a Limited Health Service Organization as defined in Section 1002 of the Limited Health Service Organization Act [215 ILCS 130/1002].

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

### Section 925.40 Filing and Extensions for Filing of Annual Audited Financial Reports

a) All insurers shall have an annual audit performed by an accountant and shall file an Annual Audited Financial Report ~~must--be--filed--by--all--insurers~~ with the Director on or before June 17 for the year ended December 31 immediately preceding. The Director may require an insurer to file an Annual Audited Financial Report earlier than June 1 with ninety (90) days advance notice to the insurer.

b) Extensions of the June 1 filing date may be granted by the Director for thirty (30) day periods upon a showing by the insurer and its independent-certified-public accountant of the reasons for requesting such extension and a determination by the Director of good cause for an extension. Examples of "good cause" include, but are not limited to, an Act of God or fortuitous or unintentional destruction of documents. The request for extensions extension must be submitted in writing but not less than ten (10) days prior to the due date in sufficient detail to permit the Director to make an informed decision with respect to the requested extension.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

### Section 925.50 Contents of Annual Audited Financial Report

a) The annual-audited-financial-report Annual Audited Financial Report shall report the financial condition position of the insurer as of the end of the most recent calendar year and the results of its operations, changes--in--financial-position cash flows and changes in capital and surplus for the report year then-ended in conformity with statutory accounting practices for preparation of the annual statement as described in Section 136 of the Illinois Insurance Code, or Section 2-7 of the Health Maintenance Organization Act, Section 2007 of the Limited Health Service Organization Act, or as otherwise permitted by the Illinois-Department-of-insurance insurance regulatory authority of if the insurer's report-of--financial-condition--can--be--ascertained state of domicile.

b) The annual-audited-financial-report Annual Audited Financial Report

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shall include the following:

- 1) Report Opinion of independent-certified-public the accountant.
- 2) Balance sheet reporting admitted assets, liabilities, capital and surplus of net worth.
- 3) Statement of gain-or-loss-from operations or statement of revenue revenues and expenses and net worth.
- 4) Statement of changes-in-financial-position-or cash flow flows statement.

5) Statement of changes in capital and surplus or net worth.

6) Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and any other notes required by generally accepted accounting principles and shall also include:

- A) a reconciliation of differences, if any, between the Annual audited--statutory--financial--statements Audited Financial Report and the Annual Statement filed pursuant to Section 136 of the Illinois Insurance Code, or Section 2-7 of the Health Maintenance Organization Act, or Section 2007 of the Limited Health Service Organization Act with a written description of the nature of these differences.
- B) a summary of ownership and relationships of the insurer and all affiliated companies.

7) The financial statements included in the Annual Audited Financial Report shall be prepared in a form and using language and groupings substantially the same as the relevant Sections sections of the Annual Statement of the insurer filed with the Director and:

- A) The financial statement statements shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (However, in the first year in which an insurer is required to file an Annual audited-financial-report Audited Financial Report, the comparative data may be omitted.)
- B) Amounts may be rounded to the nearest thousand dollars.

8) Supplementary Data and Information. This will include any additional clarifying information or data which the Director may require to be disclosed.

9) In the case of Canadian and British insurers, the Annual Audited Financial Report shall be defined as the annual statement of total business on the form filed by such companies with their domiciliary supervision authority duly audited by an independent chartered accountant. For such insurers, the letter required by Section 925.60 of this Part shall state that the accountant is aware of the requirements relating to the Annual Audited Financial Report filed with the Director pursuant to Section 925.40 and shall affirm that the opinion expressed is in conformity with such requirements.

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(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.60 Designation of Independent-Certified-Public Accountant

- a) Each insurer required by this Part to file an annual-audited-financial report Annual Audited Financial Report must, within sixty (60) days after becoming subject to such requirement, register with the Director in writing the name and address of the certified-public accountant or accounting-firm--(generally--referred-to-in-this-Part--as--the "accountant") retained to conduct the annual audit set forth in this Part. Insurers not retaining an accountant on the effective date of this Part shall register the name and address of their retained accountant not less than six (6) months before the date when the first audited financial report is to be filed.
- b) If an accountant, who was not the accountant for the immediately preceding filed Annual Audited Financial Report, is engaged to audit the insurer's financial statements, the insurer shall within thirty (30) days after the date the accountant is engaged notify the Director of this event. The insurer shall obtain a letter from such the accountant and file a copy with the Director, stating that the accountant is aware of the provisions of the Illinois Insurance Code and/or Health Maintenance Organization Act and/or the Limited Health Service Organization Act and the Rules and Regulations of the Department Insurance regulatory authority of the state of domicile that relate to accounting and financial matters and affirming that he the accountant will express his its opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the Department that insurance regulatory authority, specifying such exceptions as it he may believe appropriate.

- c) If an accountant who was not the accountant for the immediately preceding filed Annual audited--financial--report Audited Financial Report is engaged--to--audit--the--insurer's--financial--statements--the insurer--shall--within--thirty--days--of--the--date--the--accountant--is--engaged--notify--the--Department--of--this--event--dismissed--or--resigns, the insurer shall within five (5) business days notify the Director of this event. The insurer shall also furnish the Director with a separate letter within ten (10) business days after the above notification stating whether in the twenty-four (24) months preceding such engagement event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him it to make reference to the subject matter of the disagreement in connection with his its opinion. The disagreements required to be reported in response to this subsection include both those resolved to the former accountant's satisfaction and those not resolved to the

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former accountant's satisfaction. Disagreements contemplated by this subsection are those that occur at the decision making level, between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request such former accountant to furnish it a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he it does not agree; and the insurer shall furnish such responsive letter from the former accountant to the Director together with its own.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.70 Qualifications of Independent-Certified-Public Accountant

- a) The Director shall not recognize any person or firm as a qualified accountant an-independent-certified-public-accountant--who--does--not meet--the--requirements--for--the--definition--of--"accountant"--under--Section 925.30--of--this--Part that is not in good standing with the American Institute of CPA's and in all states in which the accountant is licensed to practice or, for a Canadian or British company, that is not a chartered accountant.
- b) Except as otherwise provided in this Section, an accountant shall be recognized as qualified as long as he or she conforms to the standards of the profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and Rules and Regulations and Code of Ethics and Rules of Professional Conduct of the Illinois Board of Public Accountancy, or similar code. The requirements of this subsection (c) shall become effective for years beginning after December 31, 1994. No partner or other person responsible for rendering a report may act in that capacity for more than seven (7) consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. An insurer may make application to the Director for relief from the above rotation requirement on the basis of unusual circumstances. The Director may consider the following factors in determining if the relief should be granted:
- 1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
  - 2) Premium volume of the insurer; or
  - 3) Number of jurisdictions in which the insurer transacts business.
- The Director shall not recognize as a qualified accountant, nor accept any Annual Audited Financial Report prepared in whole or in part by, any natural person who:
- 1) Has been convicted of fraud, bribery, a violation of the



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Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under Federal or state law;

- 2) Has been found to have violated the insurance laws of this State with respect to any previous reports submitted under this Part; or
- 3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this Part.

b) The Director of ~~insurance~~, as provided in Section 401 of the Code [215 ILCS 5/401], and may as provided in Administrative Hearing Procedures (50 Ill. Adm. Code 2402) ~~of the Rules of the Illinois Insurance Department~~, may hold a hearing to determine whether a ~~certified~~ ~~public~~ ~~an~~ accountant is ~~independent~~ qualified and, considering the evidence presented, may rule that the accountant is not ~~independent~~ qualified for purposes of expressing ~~his~~ an opinion on the financial statements in the ~~annual~~ ~~audited~~ ~~financial~~ ~~report~~ Annual Audited Financial Report made pursuant to this Part and require the insurer to replace the accountant with another whose relationship with the insurer is ~~independent~~ qualified within the meaning of this Part.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.80 Consolidated or Combined Audits

- a) ~~The Director may, upon written application, permit any insurer that is a member of an insurance holding company system. An insurer may make written application to the Director for approval to file audited a consolidated or combined financial statements Annual Audited Financial Report in lieu of separate annual audited financial statements Annual Audited Financial Reports if the Director in his discretion deems such permission reasonable and appropriate. Consolidated or combined findings will be considered reasonable and appropriate if the Director determines that the audit work performed under a consolidated filing is adequate to ascertain the financial condition of the insurer. If such approval is granted, insurer is part of a group of insurance companies which utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report incorporating the following as follows:~~

- 1) Amounts shown on the consolidated or combined Annual Audited Financial Report shall be shown on the worksheet.
- 2) Amounts for each insurer subject to this Section shall be stated separately.
- 3) Noninsurance operations may be shown on the worksheet on a

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combined or individual basis.

- 4) Explanations of consolidating and eliminating entries shall be included.

- 5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the Annual Statements of the insurers.

- b) The Director shall require any insurer to file separate ~~annual audited financial statements~~ Annual Audited Financial Reports although permission had previously been given to file on a consolidated or combined basis if the Director determines the reasons and/or circumstances given for approval of the consolidated audit, pursuant to subsection (a), no longer exist.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.90 Scope of Examination Audit and Report of Independent-Certified Public Accountant

- a) Financial statements furnished pursuant to Section 925.50 of this Part ~~hereof~~ shall be examined by an ~~independent~~ ~~certified~~ ~~public~~ accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards, and Consideration should also be given to such other procedures illustrated in the Financial Condition Examiners' Handbook promulgated by the National Association of Insurance Commissioners as the ~~independent~~ ~~certified~~ ~~public~~ accountant deems necessary. ~~The Director may, from time to time, prescribe that additional auditing procedures be observed by the accountant in the examination of the financial statements of insurers pursuant to this Rule.~~

- b) ~~the current "Schedule P - Part 1" (excluding those amounts related to bulk and IBNR reserves and claims counts) to the auditing procedures applied in the audit of the current statutory financial statements to determine whether Schedule P - Part 1 is fairly stated in all material respects in relation to the basic statutory financial statements taken as a whole. It is expected that the auditing procedures applied by the accountant to the claim loss and loss adjustment expense data from which Schedule P - Part 1 is prepared would be applied to activity that occurred in the current calendar year (e.g., tests of payments on claims for all accident years that were paid during the current calendar year).~~

- c) Life, accident, and health insurers shall require the accountant to subject the information included in the "Supplemental Schedule of Assets and Liabilities" and exhibits thereof to the auditing procedure applied in the audit of the current statutory financial statements to determine whether such information is fairly stated in all material

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respects in relation to the basic statutory financial statements taken as a whole and agrees to the insurer's annual statement filed with the Department.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.100 Notification of Adverse Financial Condition

a) The insurer required to furnish the annual--audited--financial--report Annual Audited Financial Report shall require the independent certified-public accountant to immediately notify report, in writing within five (5) business days, an officer or to the board of directors of the insurer or its audit committee, of any determination by that independent-certified-public the accountant that the insurer has materially misstated its financial condition as reported to the Director as of the December-31--immediately--preceding balance sheet date currently under examination, or of any determination that the insurer does not meet the minimum capital and surplus requirements of the Illinois Insurance Code and the net worth requirements of the Health Maintenance Organization Act and the Limited Health Service Organization Act, as of the December-31--immediately--preceding that date.

b) Any officer or director of an insurer required by this Part to file an annual-certified-financial-report who received any notification--from the independent--certified--public--accountant--as--required--by--this Section--shall within three business days report the existence of--the materially misstated--financial condition--as previously reported--to the Director--or--the failure--to--meet--the--minimum capital and surplus requirements of the Illinois Insurance Code or net worth--requirements of the--Health--Maintenance--Organization--Act--to--the--Director--of insurance through a written report to the Director. An insurer who has received a report pursuant to subsection (a) above shall forward a copy of the report to the Director within five (5) business days after receipt of such report and shall provide the accountant making the report with evidence of the report being furnished to the Director. If the accountant fails to receive such evidence within the required five (5) business day period, the accountant shall furnish to the Director a copy of its report within the next five (5) business days.

c) No accountant shall be liable in any manner to any person for any statement made in connection with subsection (a) and (b) above if such statement is made in good faith in compliance with subsection (a) and (b) above.

d) If the accountant, subsequent to the date of the audited--financial report Annual Audited Financial Report filed pursuant to this Part, becomes aware of facts which might have affected his its report, the Department Director notes the obligation of the accountant to take such action as prescribed in Volume 1 by, Section AU561 of the

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Professional Standards of the American Institute of Certified Public Accountants as of June 1, 1986, with no later amendments or editions.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.110 Evaluation of--Accounting Procedures and System of Report on Internal Control

a) In addition to the annual--audited--financial--reports,--each--insurer shall--furnish--the--Director--with--a--report--of--evaluation--performed--by the accountant, in connection with his examination of the accounting procedures of the insurer and its system of internal control.

b) A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control including any remedial action taken or proposed, shall be filed annually by the insurer with the Department within sixty days after the filing of the annual--audited--financial--report.

c) This report shall follow generally the Form for--Reports--on--Internal Control Based on Audits described in Volume 17 Section AU642-39 of the Professional--Standards--of--the--American--Institute--of--Certified--Public Accountants as of June 1, 1986, with no later amendments or editions.

In addition to the Annual Audited Financial Report, each insurer shall furnish the Director with a written report prepared by the accountant stating its evaluation of the accounting procedures of the insurer and the insurer's system of internal control, including any remedial action taken or proposed. The written report shall include a description of any significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. The written report shall be filed annually by the insurer with the Director, on or before June 1, along with the filing of the Annual Audited Financial Report. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the accountant's report.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.115 Accountant's Letter of Qualifications

The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the Annual Audited Financial Report, a letter stating:

a) That the accountant is independent with respect to the insurer and



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conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and the Rules of Professional Conduct of the Illinois Board of Public Accountancy, or similar code. The background and experience in general, and the experience in audits of insurers, of the staff assigned to the engagement and whether each is an accountant. Nothing within this Part shall be construed as prohibiting the accountant from utilizing such staff as deemed appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

c) That the accountant understands the Annual Audited Financial Report and its opinion thereon will be filed in compliance with this Part and that the Director will be relying on this information in the monitoring and regulation of the financial position of insurers.

d) That the accountant consents to the requirements of Section 925.120 of this Part and that the accountant consents and agrees to make available for review by the Director, the Director's designee or the Director's appointed agent the workpapers, as defined in Section 925.120.

e) A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing of the American Institute of Certified Public Accountants.

f) A representation that the accountant is in compliance with the requirements of Section 925.70 of this Part.

(Source: Added at 19 Ill. Reg. 12229, effective AUG 14 1995)

### Section 925.120 Definition, Availability and Maintenance of CPA-Workpapers-Certified-Public-Accountant-(CPA) Accountant Workpapers

a) Workpapers are the records kept by the independent-certified-public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to his examination of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent-certified-public accountant in the course of his-examination its audit of the financial statements of an insurer and which support his opinion thereon thereof.

b) Every insurer required to file an Annual Audited-Financial-Report Audited Financial Report pursuant to this Rule Part shall require the accountant to make available for review by Department the Director's examiners, the all workpapers prepared in the conduct of his its examination and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the offices of the Director, or at any other reasonable place designated

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by the Director. The insurer shall require that the accountant retain the audit workpapers for-a-period-of-not-less-than-five-years-after the-period-reported-thereon and communications until the Director has filed a Report on Examination covering the period of the audit, but no longer than seven (7) years from the date of the audit report.

c) In the conduct of the aforementioned periodic review by the Director's examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the Director's examiners. Such review by the Director's examiners shall be considered an investigation and all working papers and communications obtained during the course of such investigation shall be afforded the same confidentiality as other examination workpapers generated by the Director's examiners.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

### Section 925.130 Examinations Repealed

a) The-Director-or-his-designee-shall-determine-the-nature-scope-and frequency-of-examinations-under-this-Part-conducted-by-Department examiners-pursuant-to-Section-132-of-the-Insurance-Code-(Ill-Rev-Stat-1995)-ch-73-par-74)-Such-examinations-may-but-need-not cover-all-aspects-of-the-insurer's-assets-condition-of-affairs-and operations-and-may-include-and-be-supplemented-by-audit-procedures performed-by-an-independent-certified-public-accountant-as-herein provided-Scheduling-of-examinations-will-take-into-account-such matters-as-early-warning-test-results-changes-in-management-results of-market-conduct-examinations-and-audited-financial-reports-the type-of-examinations-under-the-provisions-of-this-Part-performed-by Department-examiners-after-the-effective-date-of-this-Part-shall-be-as follows:

Compliance-Examinations-will-consist-of-a-review-of-the-accountant's-workpapers-defined-under-Section-925.120-of-this Part-and-a-general-review-of-the-insurer's-corporate-affairs-and insurance-operations-to-determine-compliance-with-the-filings insurance-Code-and-the-Health-Maintenance-Organization-Act-and the-Rules-of-the-Department-the-examiners-may-perform alternative-or-additional-examinations-procedures-to-supplement those-performed-by-the-accountant-when-the-examiners-determine that-such-procedures-are-necessary-to-verify-the-financial condition-of-the-insurer:

2) targeted-Examinations-may-cover-such-areas-as-life-reserve valuations-claims-analyses-organizational-and-capital-changes and-such-other-areas-as-the-Director-or-his-designee-may-deem appropriate.

3) Comprehensive-Examinations-will-be-performed-when-the-report-of the-accountant-as-provided-for-in-Section-925.99-of-this-Part-or

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the notification required by Section 925.100 of this Part or the results of compliance or targeted examinations or other circumstances indicate in the judgment of the Director or his designee that a complete examination of the condition and affairs of the insurer is necessary.

- b) Upon the completion of each examination described above, the examiner appointed by the Director shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by Department examiners and the procedures of the accountant which the examiners may have utilized to supplement their examination procedures and the procedures which were performed by the registered independent certified public accountant if included as a supplement to the examination as herein provided. The cost of the examination shall be paid by the insurer examined at the rate prescribed by the Illinois Insurance Code and the Rules and Regulations of the Illinois Department of Insurance.

(Source: Repealed at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.140 Application and Effective Date Exemptions

- a) This Part shall apply to Illinois domestic stock mutual and reciprocal insurance companies transacting Class 17-2 or 3 insurance business fraternal benefit societies and assessment life and accident and health companies and health maintenance organizations.

b) Upon written application of any domestic insurer, the Director may grant an exemption from compliance with this Part if the Director finds, upon review of the application, that compliance with this Part would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time, for a specified period or periods, within ten (10) days from a denial of an insurer's written request for an exemption from this Part, such insurer may request in writing a hearing on its application for an exemption. Such hearing shall be held in accordance with the Rules of the Illinois Department of Insurance pertaining to administrative hearing procedures (50 Ill. Adm. Code 2402).

- b) Foreign and alien insurers having total direct premiums written of less than \$1,000,000 in any calendar year shall be automatically exempt from this Part for such year unless the Director makes a specific finding that compliance is necessary for the Director to carry out statutory responsibilities.

- c) Foreign or alien insurers filing audited financial reports in their state of domicile, pursuant to such domestic state's requirement of audited financial reports which has been found by the Director to be substantially similar to the requirements of this Part, are exempt from this Part if:

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- 1) A copy of the Annual Audited Financial Report, Report on Internal Control, and the Accountant's Letter of Qualifications which are filed with such other state are filed with the Director in accordance with the filing dates specified in Sections 925.40, 925.110 and 925.115 respectively (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance).
- 2) A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the Director within the time specified in Section 925.100.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)

## Section 925.150 Severability Provision

If any Section or portion of a Section of this Rate Part or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the Rate Part or the applicability of such provision to other persons or circumstances shall not be affected thereby. This Rate Part is effective July 21, 1975.

(Source: Amended at 19 Ill. Reg. 12229, effective AUG 14 1995)



## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Foreign and Alien Insurer Annual Audited Financial Reports
- 2) Code Citation: 50 Ill. Adm. Code 601
- 3) Section Number: Adopted Action:
- |         |          |
|---------|----------|
| 601.10  | Repealed |
| 601.20  | Repealed |
| 601.30  | Repealed |
| 601.40  | Repealed |
| 601.50  | Repealed |
| 601.60  | Repealed |
| 601.70  | Repealed |
| 601.80  | Repealed |
| 601.90  | Repealed |
| 601.100 | Repealed |
| 601.110 | Repealed |
| 601.120 | Repealed |
| 601.130 | Repealed |
| 601.140 | Repealed |

- 4) Statutory Authority: Implementing and authorized by Sections 136 and 401 of the Illinois Insurance Code [215 ILCS 5/136 and 401].

- 5) Effective Date of Repeal: August 14, 1995

- 6) Does this Repealer contain an automatic repeal date? No

- 7) Does this Repealer contain incorporations by reference? No.

- 8) Date filed in Agency's Principal Office: August 14, 1995

- 9) Notice of Proposal Published in Illinois Register:

March 3, 1995, 19 Ill. Reg. 2376

- 10) Has JCAR issued a Statement of Objections to this Repealer? No.

- 11) Difference(s) between proposal and final version: Added "(Repealer)" following the title of this Part.

- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

- 13) Will this Repealer replace an emergency rule currently in effect? No.

- 14) Are there any amendments pending on this Part? No.

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- 15) Summary and Purpose of rulemaking: The Department has incorporated the regulatory requirements for foreign and alien insurer annual audited financial reports into Part 925. Please see this Illinois Register for the final adoption of amendments to Part 925.

- 16) Information and questions regarding this adopted Repealer shall be directed to:

Jim Hanson  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
(217) 782-6284

The full text of the Adopted Repealer begins on the next page.

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED REPEALER

## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF INSURANCE

## SUBCHAPTER 9: FOREIGN OR ALIEN COMPANIES

## PART 601

## FOREIGN AND ALIEN INSURER ANNUAL AUDITED FINANCIAL REPORTS (REPEALED)

Section	Purpose and Scope
601.10	Definitions
601.20	Filing and Extensions for Filing of Annual Audited Financial Reports
601.30	Contents of Annual Audited Financial Report
601.40	Designation of Independent Certified Public Accountant
601.50	Qualifications of Independent Certified Public Accountant
601.60	Consolidated or Combined Audits
601.70	Scope and Examination and Report of Independent Certified Public Accountant
601.80	Notification of Adverse Financial Condition
601.90	Evaluation of Accounting Procedures and System of Internal Control
601.100	Availability and Maintenance of Certified Public Accountant
601.110	Workpapers
601.120	Exemptions
601.130	Effective Dates
601.140	Severability Provision

AUTHORITY: Implementing and authorized by Sections 136 and 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 748 and 1013).

SOURCE: Adopted at 13 Ill. Reg. 2051, effective February 10, 1989; repealed at 19 Ill. Reg. **12,248**, effective **AUG 14 1995**.

**Section 601.10 Purpose and Scope**

The purpose of this Part is to improve the Illinois Insurance Department's ability to monitor the financial condition of foreign and alien insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers. This Part shall apply to foreign and alien insurers except those insurers exempt under Section 601.120 of this Part. This Part shall not prohibit, preclude or in any way limit the Director of Insurance from ordering and/or conducting and/or performing examinations of insurers under the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 613 et seq.) or 50 Ill. Adm. Code: Chapter I.

**Section 601.20 Definitions**

"Accountant", "Certified Public Accountant (CPA)" and "Independent Public Accountant" means an independent certified public accountant or

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accounting firm who has a license to practice issued by the state in which he resides or has his principal place of business. For purposes of this Part, "independent" means not affiliated with an insurer.

"Audited Financial Report" means and includes those items specified in Section 601.40 of this Part.

"Director" means the Director of the Illinois Department of Insurance.

"Insurer" means a foreign or alien insurance company as determined by Section 2(g) and (h) of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 614 (g) and (h)) with the exception of alien Lloyds companies.

"Workpapers" are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information and the conclusions reached pertinent to his examination of the financial statements of an insurer. Workpapers, accordingly, may include work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his examination of the financial statements of an insurer and which support his opinion thereon.

**Section 601.30 Filing and Extensions for Filing of Annual Audited Financial Reports**

- a) All foreign and alien insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the Director on or before June 30 for the year ended December 31 immediately preceding.
- b) Extensions of the June 30 filing date may be granted by the Director for thirty day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting such extension and determination by the Director of good cause for an extension. Examples of "good cause" include, but are not limited to, loss of key personnel, an Act of God, destruction of documents. The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the Director to make an informed decision with respect to the requested extension.

**Section 601.40 Contents of Annual Audited Financial Report**

- a) The Annual Audited Financial Report shall report the financial condition of the insurer as of the end of the most recent calendar year and the results of its operation, cash flow statement and changes in capital and surplus for the year ended in conformity with statutory



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accounting practices for preparation of the annual statement as described in Section 136 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 748).

b) The Annual Audited Financial Report shall include the following:

- 1) Report of independent certified public accountant; and
- 2) Balance sheet reporting admitted assets, liabilities, capital and surplus; and
- 3) Statement of gain or loss from operations; and
- 4) Cash flow statement; and
- 5) Statement of changes in capital and surplus; and
- 6) Notes to financial statements. These notes shall include:
  - A) A reconciliation of differences, if any, between the audited statutory financial statements and the Annual Statement filed pursuant to Section 136 of the Illinois Insurance Code with a written description of the nature of these differences; and
  - B) A narrative explanation of all significant inter-company transactions and balances; and
- 7) The financial statements included in the Audited Financial Report shall be prepared in a form using language and groupings substantially the same as the relevant Sections of the Annual Statement of the insurer filed with the Director.
  - A) The financial statements shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.
  - B) Amounts may be rounded to the nearest thousand dollars.

**Section 601.50 Designation of Independent Certified Public Accountant**

- a) Each insurer required by this Part to file an annual Audited Financial Report must within sixty days after becoming subject to such requirement, register with the Director in writing the name and address of the certified public accountant or accounting firm (generally referred to in this Part as the "accountant") retained to conduct the annual audit set forth in this Part. Insurers not retaining an independent certified public accountant on the effective date of this Part shall register the name and address of their retained certified public accountant not less than six months before the date when the first annual audited financial report is to be filed.
- b) The insurer shall obtain a letter from such accountant, and file a copy with the Director stating that the accountant is aware of the provisions of the Illinois Insurance Code and the Regulations of the Insurance Department of the state of domicile that relate to accounting and financial matters and affirming that he will express

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his opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that Department, specifying such exceptions as he may believe appropriate.

- c) If an accountant who was not the accountant for the immediately preceding filed Audited Financial Report is engaged to audit the insurer's financial statements, the insurer shall within thirty days of the date the accountant is engaged notify the Department of this event. The insurer shall also furnish the Director with a separate letter stating whether in the twenty-four months preceding such engagement there were any disagreements with the former accountant, on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The insurer shall also in writing request such former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he does not agree; and the insurer shall furnish such responsive letter from the former accountant to the Director together with its own.

**Section 601.60 Qualifications of Independent Certified Public Accountant**

- a) The Director shall not recognize any person as an independent certified public accountant who does not meet the requirements for the definition of "Accountant" under Section 601.20 of this Part.
- b) The Director of Insurance, as provided in Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 1013), may, as provided in 50 Ill. Adm. Code 2402, hold a hearing to determine whether a certified public accountant is independent and, considering the evidence presented, may rule that the accountant is not independent for purposes of expressing his opinion on the financial statements in the Annual Audited Financial Report made pursuant to this Part and require the insurer to replace the accountant with another whose relationship with the insurer is independent within the meaning of this Part.

**Section 601.70 Consolidated or Combined Audits**

- a) The Director may, upon written application, permit any insurer that is a member of an insurance holding company system to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the Director in his discretion deems such permission reasonable and appropriate. Consolidated or combined filings will be considered reasonable and appropriate if the Director determines that the audit work performed under a consolidated

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filing is adequate to ascertain the financial condition of the insurer. If such approval is granted, a columnar consolidating or combining worksheet shall be filed with the report incorporating the following:

- 1) Amounts shown on the consolidated or combined Audited Financial Report shall be shown on the worksheet.
- 2) Amounts for each insurer subject to this Section shall be stated separately.
- 3) Noninsurance operations may be shown on the worksheet on a combined or individual basis.
- 4) Explanations of consolidating and eliminating entries shall be included.
- 5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the Annual Statements of the insureds.
- b) The Director shall require any insurer to file separate annual audited financial statements although permission had previously been given to file on a consolidated or a combined basis if the Director determines the reasons and/or circumstances given for approval of the consolidated audit, pursuant to subsection (a), no longer exists.

**Section 601.80 Scope and Examination and Report of Independent Certified Public Accountant**

Financial statements furnished pursuant to Section 601.40 shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and such other procedures illustrated in the Examiner's Handbook promulgated by the National Association of Insurance Commissioners, July 8, 1988 (no later amendments or editions), as the independent certified public accountant deems necessary.

**Section 601.90 Notification of Adverse Financial Condition**

- a) The insurer required to furnish the Annual Audited Financial Report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of any determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the Director as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirements, as set out in Section 111(d) of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 723(d)). The insurer shall furnish such notification to the Director within five days of receipt thereof.
- b) If the accountant, subsequent to the date of the Audited Financial Report filed pursuant to this Part, becomes aware of acts which might

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have affected his report, the Department notes the obligation of the accountant to take such action as prescribed in Volume 1, Section AU 561 of the Professional Standards of the American Institute of Certified Public Accountants as of June 1, 1987, with no later amendments or editions.

**Section 601.100 Evaluation of Accounting Procedures and System of Internal Control**

- a) In addition to the Annual Audited Financial Report, each insurer shall furnish the Director with a report of evaluation performed by the accountant, in connection with his examination, of the accounting procedures of the insurer and its system of internal control.
- b) A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the insurer with the Department within sixty days after the filing of the Annual Audited Financial Report.
- c) This report shall follow generally the form for Reports on Internal Control Based on Audits described in Volume 1, Section AU 642 of the Professional Standards of the American Institute of Certified Public Accountants as of June 1, 1987, with no later amendments or editions.

**Section 601.110 Availability and Maintenance of Certified Public Accountant Workpapers**

- a) Every foreign and alien insurer required to file an Audited Financial Report pursuant to this Part shall require the accountant, through the insurer, to make available for review by the Department examiners, the workpapers prepared in the conduct of his examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported thereon.
- b) In the conduct of the aforementioned periodic review by the Department examiners, photocopies of pertinent audit workpapers may be made and retained by the Department. Such reviews by the Department examiners shall be considered investigations and all working papers obtained during the course of such investigations shall be confidential.

**Section 601.120 Exemptions**

- a) Upon written application of an insurer, the Director shall grant an exemption from compliance with this Part if the Director finds upon review of the application, that one or more of the following grounds for exemption exist:
  - 1) The insurer has direct premiums written in Illinois of less than \$250,000 and has less than 500 policyholders in Illinois as of the end of the most recent calendar year. An exemption under this subsection shall not be granted if the Director specifically



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finds that compliance with this Part is necessary for the Director to carry out his statutory duties.

- 2) The insurer files audited financial reports on a statutory basis in another state pursuant to such other states' requirements. An exemption based on this subsection shall be granted only if:

- A) A copy of the Audited Financial Report and the Evaluation of Accounting Procedures and Systems of Internal Control Report which are filed with such other state are filed with the Director in accordance with the filing dates respectively set forth in Sections 601.30 and 601.100 of this Part; and
- B) A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the Director within the time specified in Section 601.90 of this Part.

- b) Exemptions from this Part shall not exceed a period of one year. Insurers desiring to continue to be exempt from this Part must reapply for such exemption annually.

- c) Any decision of the Director under this Section shall be transmitted in writing to the insurer within thirty (30) days after determination. If the application for exemption is denied by the Director, the insurer may, within ten (10) days of receipt of written notice of such denial, request in writing a hearing on its application for exemption. Such hearing shall be held in accordance with 50 Ill. Adm. Code 2402.

**Section 601.130 Effective Dates**

- a) Insurers retaining, on the effective date of this Part, an independent public accountant who had issued an audit report on that insurer for the preceding year, shall comply with this Part for the year ending December 31, 1989, and for each year thereafter.

- b) Insurers not retaining an independent certified public accountant on the effective date of this Part shall meet the following schedule for compliance:

- 1) As of December 31, 1989, file with the Director:

- A) Report of independent certified public accountant; and
- B) Audited balance sheet; and
- C) Notes to audited balance sheet.

- 2) For the year ending December 31, 1990, and each year thereafter, such insurers shall file with the Director all reports required by this Part.

**Section 601.140 Severability Provision**

If any Section or portion of a Section of this Part or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the Part or the applicability of such provision to other persons or circumstances shall not be affected thereby.

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- 1) Heading of the Part: Standards For New Solid Waste Landfills
- 2) Code citation: 35 Ill. Adm. Code 811
- 3) Section numbers: Adopted action:

811.700	Amendment
811.706	Amendment
811.711	Amendment
811.712	Amendment
811.713	Amendment
- 4) Statutory authority: 415 ILCS 5/5, 21, 21.1, 22, 22.17, 22.40, 28.1 & 27.
- 5) Effective date of amendments: August 15, 1995
- 6) Does this rulemaking contain an automatic repeal date?: No.
- 7) Do these amendments contain incorporations by reference? No.
- 8) Date filed in Board's principal office: Order adopted August 3, 1995.
- 9) Notice of proposal published in Illinois Register:  
May 19, 1995, 19 Ill. Reg. 6756
- 10) Has JCAR issued a Statement of Objections to these rules? No.  
  
Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Section 5 of the Administrative Procedure Act [5 ILCS 100/5-35 and 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.
- 11) Differences between proposal and final version:  
  
The following statement was added to the Board Note at the end of each Section amended: "P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to April 9, 1997." Further, a reference to Section 22.40(a) of the Environmental Protection Act was added to the authority note for Part 811.
- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR?  
  
Section 22.40(a) of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this

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rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

13) Will these amendments replace an emergency amendments currently in effect?  
No.

14) Are there any other amendments pending on this Part? No.

15) Summary and purpose of amendments:

A more detailed description is contained in the Board's opinion of August 3, 1995 in R95-13, which Opinion is available from the address below. Section 22.4 of the Environmental Protection Act provides that Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates Part 811 of the Illinois RCRA Subtitle D nonhazardous waste landfill rules to correspond with amendments adopted by U.S. EPA which appeared in the Federal Register on April 7, 1995, at 60 Fed. Reg. 17649. Those amendments delay the effective date of the federal financial assurance requirements until April 9, 1997. The former effective date was April 9, 1995 (or October 9, 1995 for remote, very small landfills, as defined by 40 CFR 258.1(f)(1)). U.S. EPA amended the dates at 40 CFR 258.70(b) and 258.74(a)(5), (b)(1), (c)(1), and (d)(1). The stated purpose for the delay was to allow U.S. EPA additional time to perfect financial tests for local government and corporate self-assurance.

Accordingly, the Board has revised the financial assurance compliance deadlines to April 9, 1997. This required amendment of Sections 811.700(f) and (g), 811.706(c)(1), 811.711(a), 811.712(a), and 811.713(a), which are all locations where a compliance deadline appears in the regulations. In addition to the federally-derived amendments in this rulemaking, the Board has made a number of corrective and general housekeeping amendments in this rulemaking.

16) Information and questions regarding these adopted amendments shall be directed to:

Michael J. McCambridge  
Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
312-814-6924

Request copies of the Board's opinion and order of August 3, 1995 from Victoria Agyeaman, at 312-814-3620.

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The full text of the adopted amendments begins on the next page:



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## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE G: WASTE DISPOSAL

## CHAPTER I: POLLUTION CONTROL BOARD

## SUBCHAPTER I: SOLID WASTE AND SPECIAL WASTE HAULING

## PART 811

## STANDARDS FOR NEW SOLID WASTE LANDFILLS

## SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section  
811.101  
811.102  
811.103  
811.104  
811.105  
811.106  
811.107  
811.108  
811.109  
811.110  
811.111

Scope and Applicability  
Location Standards  
Surface Water Drainage  
Survey Controls  
Compaction  
Daily Cover  
Operating Standards  
Salvaging  
Boundary Control  
Closure and Written Closure Plan  
Postclosure Maintenance

## SUBPART B: INERT WASTE LANDFILLS

Section  
811.201  
811.202  
811.203  
811.204  
811.205  
811.206  
811.207

Scope and Applicability  
Determination of Contaminated Leachate  
Design Period  
Final Cover  
Final Slope and Stabilization  
Leachate Sampling  
Load Checking

## SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section  
811.301  
811.302  
811.303  
811.304  
811.305  
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811.307  
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811.309  
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811.311

Scope and Applicability  
Facility Location  
Design Period  
Foundation and Mass Stability Analysis  
Foundation Construction  
Liner Systems  
Leachate Drainage System  
Leachate Collection System  
Leachate Treatment and Disposal System  
Landfill Gas Monitoring  
Landfill Gas Management System

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## Landfill Gas Processing and Disposal System

811.312  
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Intermediate Cover  
Final Cover System  
Hydrogeological Site Investigations  
Plugging and Sealing of Drill Holes  
Groundwater Impact Assessment  
Design, Construction, and Operation of Groundwater Monitoring Systems  
Groundwater Monitoring Programs  
Groundwater Quality Standards  
Waste Placement  
Final Slope and Stabilization  
Load Checking Program  
Corrective Action Measures for MSWLF Units  
Selection of remedy for MSWLF Units  
Implementation of the corrective action program at MSWLF Units

## SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section  
811.401  
811.402  
811.403  
811.404  
811.405  
811.406

Scope and Applicability  
Notice to Generators and Transporters  
Special Waste Manifests  
Identification Record  
Recordkeeping Requirements  
Procedures for Excluding Regulated Hazardous Wastes

## SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section  
811.501  
811.502  
811.503  
811.504  
811.505  
811.506  
811.507  
811.508  
811.509

Scope and Applicability  
Duties and Qualifications of Key Personnel  
Inspection Activities  
Sampling Requirements  
Documentation  
Foundations and Subbases  
Compacted Earth Liners  
Geomembranes  
Leachate Collection Systems

## SUBPART G: FINANCIAL ASSURANCE

Section  
811.700  
811.701  
811.702  
811.703  
811.704  
811.705

Scope, Applicability and Definitions  
Upgrading Financial Assurance  
Release of Financial Institution  
Application of Proceeds and Appeals  
Closure and Postclosure Care Cost Estimates  
Revision of Cost Estimate

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- 811.706 Mechanisms for Financial Assurance  
811.707 Use of Multiple Financial Mechanisms  
811.708 Use of a Financial Mechanism for Multiple Sites  
811.709 Trust Fund for Unrelated Sites  
811.710 Trust Fund  
811.711 Surety Bond Guaranteeing Payment  
811.712 Surety Bond Guaranteeing Performance  
811.713 Letter of Credit  
811.714 Closure Insurance  
811.715 Self-Insurance for Non-commercial Sites

## APPENDIX A Financial Assurance Forms

- ILLUSTRATION A Trust Agreement  
ILLUSTRATION B Certificate of Acknowledgment  
ILLUSTRATION C Forfeiture Bond  
ILLUSTRATION D Performance Bond  
ILLUSTRATION E Irrevocable Standby Letter of Credit  
ILLUSTRATION F Certificate of Insurance for Closure and/or Postclosure Care

- ILLUSTRATION G Operator's Bond Without Surety  
ILLUSTRATION H Operator's Bond With Parent Surety  
ILLUSTRATION I Letter from Chief Financial Officer

## APPENDIX B Section-by-Section Correlation Between the Requirements of the Federal MSWLF Regulations at 40 CFR 258 (1992) and the Requirements of Parts 810 through 814

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17, 22.40 and 28.1 and authorized by Section 27 of the Environmental Protection Act (415 ILCS 5/5, 21, 21.1, 22, 22.17, 22.40, 28.1 and 27).

SOURCE: Adopted in R88-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in R92-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in R90-26 at 18 Ill. Reg. 12481, effective August 1, 1994, amended in R95-13 at 19 Ill. Reg. 12257, effective AUG 15 1995.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART G: FINANCIAL ASSURANCE

## Section 811.700 Scope, Applicability and Definitions

- a) This Subpart provides procedures by which the owner or operator of a permitted waste disposal facility provides financial assurance satisfying the requirements of Section 21.1(a) of the Act.  
b) Financial assurance may be provided, as specified in Section 811.706,

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by a trust agreement, a bond guaranteeing payment, a bond guaranteeing payment or performance, a letter of credit, insurance or self-insurance. The owner operator shall provide financial assurance to the Agency before the receipt of the waste.

- c) Except as provided in subsection (f), this Subpart does not apply to the State of Illinois, its agencies and institutions, or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site that is owned or operated by such a governmental entity shall provide financial assurance for closure and postclosure care of the site.

- d) The owner or operator is not required to provide financial assurance pursuant to this Subpart if the owner or operator demonstrates:

- 1) That closure and postclosure care plans filed pursuant to 35 Ill. Adm. 724 or 725 will result in closure and postclosure care of the site in accordance with the requirements of this Part; and
- 2) That the owner or operator has provided financial assurance adequate to provide for such closure and postclosure care pursuant to 35 Ill. Adm. Code 724 or 725.

- e) Definition: "Assumed closure date" means the date during the next permit term on which the costs of premature final closure of the facility, in accordance with the standards of this Part, will be greatest.

- f) On or after April 9, 1997 1995, no person, other than the State of Illinois, its agencies and institutions, shall conduct any disposal operation at a MSWLF unit that requires a permit under subsection (d) of Section 21 of the Act, unless that person complies with the financial assurance requirements of this Part.

- g) The standards adopted in this subpart that are identical in substance to the federal Subtitle D regulations that are individually indicated as applicable to MSWLF units shall not apply to such units until April 9, 1997 1995.

BOARD NOTE: Subsection (f) clarifies the applicability of the financial assurance requirements to local governments, since the Subtitle D regulations exempt only federal and state governments from financial assurance requirements. (See 40 CFR 258.70 (1994), as amended at 60 Fed. Reg. 17652 (Apr. 7, 1995) (1992)). P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to April 9, 1997.

BOARD NOTE: The compliance dates specified in subsections (f) and (g) reflect the revisions adopted by the 85th General Assembly in the Federal Register Notification published on October 17, 1993 (see 58 FR 51536).

(Source: Amended at 19 Ill. Reg. 12257, effective AUG 15 1995)

## Section 811.706 Mechanisms for Financial Assurance

- a) The owner or operator of a waste disposal site may utilize any of the



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mechanisms listed in subsections (a)(1) through (a)(6) to provide financial assurance for closure and postclosure care, and for corrective action at a MSWLF unit. An owner or operator of a MSWLF unit shall also meet the requirements of subsections (b), (c), and (d). The mechanisms are as follows:

- 1) A trust fund (see Section 811.710);
  - 2) A surety Bond Guaranteeing Payment (see Section 811.711);
  - 3) A surety Bond Guaranteeing Performance (see Section 811.712);
  - 4) A letter of Credit (see Section 811.713);
  - 5) Closure Insurance (see Section 811.714); or
  - 6) Self-insurance (see Section 811.715).
- b) The owner or operator of a MSWLF unit shall ensure that the language of the mechanisms listed in subsection (a), when used for providing financial assurance for closure, postclosure, and corrective action, satisfies the following:
- 1) The amount of funds assured is sufficient to cover the costs of closure, post-closure care, and corrective action; and
  - 2) The funds will be available in a timely fashion when needed.
  - 3) The financial assurance mechanisms shall be legally valid, binding, and enforceable under state and federal law.
- c) The owner or operator of a MSWLF unit shall provide financial assurance utilizing one or more of the mechanisms listed in subsection (a) within the following dates:
- 1) By April 9, 1997 ~~1994~~ the effective date of these requirements or prior to the initial receipt of solid waste, whichever is later, in the case of closure and post-closure care; or
  - 2) No later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325, in the case of corrective action.
- d) The owner or operator shall provide continuous coverage until the owner or operator is released from the financial assurance requirements pursuant to 35 Ill. Adm. Code 813.403(b) or Section 811.326.

**BOARD NOTE:** Subsections (b) and (c) are derived from 40 CFR 258.74(1) (1994). Amendments prompted by amendments to 40 CFR 258.74(a)(5) (1994), as amended at 60 Fed. Reg. 17652 (Apr. 7, 1995). ~~1994~~ P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to April 9, 1997.

(Source: Amended at 19 Ill. Reg. 12257, effective AUG 15 1995)

## Section 811.711 Surety Bond Guaranteeing Payment

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency. A surety bond obtained

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by an owner or operator of a MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 1995 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

- b) The surety company issuing the bond shall be licensed by the Illinois Department of Insurance pursuant to the Illinois Insurance Code ~~1991~~ Rev. Stat. 1991-CH 737, para. 613-1 et seq. [215 ILCS 5/1-1 et seq.] and approved by the U.S. Department of the Treasury as an acceptable surety.

**BOARD NOTE:** The U.S. Department of the Treasury lists acceptable sureties in its Circular 570.

- c) The surety bond must be on the forms specified in Appendix A, Illustration C, D, or H of this Part.

- d) Any payments made under the bond will be placed in the landfill closure and postclosure fund within the State Treasury.

## e) Conditions:

- 1) The bond must guarantee that the owner or operator will provide closure and postclosure care in accordance with the approved MSWLF closure and postclosure care plans. If the facility is a MSWLF unit, then the corrective action bond must guarantee that the owner or operator will implement corrective action in accordance with Section 811.326.
  - 2) The surety will become liable on the bond obligation when, during the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator:
    - A) Abandons the site;
    - B) Is adjudicated bankrupt;
    - C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction;
    - D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to close the site or provide postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans; or
    - E) For a corrective action bond, fails to implement corrective action at a MSWLF unit in accordance with Section 811.326
- f) Penal sum:
- 1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.
  - 2) The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.
- g) Term:
- 1) The bond must be issued for a term of at least five years and

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must not a cancelable during that term.

- 2) If the owner or operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond must be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension the bond will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.

h) Cure of default and refunds:

- 1) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action program at a MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at a MSWLF unit or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action in compliance with this Part.

- 2) After closure and postclosure care have been completed in accordance with the plans and requirements of this Part or after the completion of corrective action at a MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Postclosure Fund" by the surety.

BOARD NOTE: MSWLF Board--Note: Corrective action language at subsection (a) is derived from 40 CFR 258.74(b)(1) (1994), as amended at 60 Fed. Reg. 17652 (Apr. 7, 1995). †1997-P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to April 9, 1997. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

(Source: Amended at 19 Ill. Reg. 12257, effective AUG 15 1995)

### Section 811.712 Surety Bond Guaranteeing Performance

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency. A surety bond obtained by an owner or operator of a MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been

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- selected in accordance with the requirements of Section 811.325. The surety company issuing the bond shall be licensed by the Illinois Department of Insurance pursuant to the Illinois Insurance Code †††† Rev. Stat. †††† ch. 737, pars. 613-et-seq. (215 ILCS 571-et-seq.) and approved by the U.S. Department of the Treasury as an acceptable surety.

BOARD NOTE: The U.S. Department of the Treasury lists acceptable sureties in its Circular 570.

- c) The surety bond must be on the forms as specified in Appendix A, Illustration C, D, or H of this Part.
- d) Any payments made under the bond will be placed in the landfill closure and postclosure fund within the State Treasury.

e) Conditions:

- 1) The bond must guarantee that the owner or operator will provide closure and postclosure care in accordance with the closure and postclosure care plans in the permit. If the facility is a MSWLF unit, then a corrective action bond must guarantee that the owner or operator will implement corrective action in accordance with Section 811.326. The surety shall have the option of providing closure and postclosure care or carrying out corrective action, or of paying the penal sum.

- 2) The surety will become liable on the bond obligation when, during the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator:

- A) Abandons the site;
- B) Is adjudicated bankrupt;
- C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction; or
- D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to close the site or provide postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans; or
- E) For a corrective action bond, fails to implement corrective action at a MSWLF unit in accordance with Section 811.326.

f) Penal sum:

- 1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.
- 2) The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.

g) Term:

- 1) The bond must be issued for a term of at least five years and must not be cancelable during that term.
- 2) If the owner or operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond



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must be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension, the bond will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.

## h) Cure of default and refunds:

1) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at a MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at a MSWLF unit, or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action at a MSWLF unit in compliance with this Part.

2) After closure and postclosure care have been completed in accordance with the closure and postclosure care plans and the requirements of this Part or after the completion of corrective action at a MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Postclosure Fund" by the surety.

1) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the Agency releases the owner or operator from the requirements of this Subpart.

BOARD NOTE: MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74 (b)(1) (1994), as amended at 60 Fed. Reg. 17652 (Apr. 7, 1995). (†992† P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to April 9, 1997. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

(Source: Amended at 19 Ill. Reg. 12257, effective AUG 15 1995)

## Section 811.713 Letter of Credit

a) An owner or operator may satisfy the requirements of this Subpart by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Section and submitting the letter to the Agency. A letter of credit obtained by an owner or operator of a MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with

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the requirements of Section 811.325.

b) The issuing institution shall be an entity which has the authority to issue letters of credit and:

- 1) Whose letter-of-credit operations are regulated by the Illinois Commissioner of Banks and Trust Companies pursuant to the Illinois Banking Act (††††-Rev--Stat--19917-CH-177-PARS-301--et seq. (205 ILCS 5/1-et-seq-†); or,
- 2) Whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

## c) Forms:

1) The letter of credit must be on the forms specified in Appendix A, Illustration E.

2) The letter of credit must be accompanied by a letter from the owner or operator, referring to the letter of credit by number, the name and address of the issuing institution, and the effective date of the letter, and providing the following information: the name and address of the site and the amount of funds assured for closure and postclosure care of the site, or for corrective action at a MSWLF unit by the letter of credit.

d) Any amounts drawn by the Agency pursuant to the letter of credit will be deposited in the landfill closure and postclosure fund within the State Treasury.

e) Conditions on which the Agency may draw on the letter of credit:

1) The Agency shall draw on the letter of credit if the owner or operator fails to perform closure or postclosure care in accordance with the closure and postclosure care plans, or fails to implement corrective action at a MSWLF unit in accordance with Section 811.326.

2) The Agency shall draw on the letter of credit when the owner or operator:

- A) Abandons the site;
- B) Is adjudicated bankrupt;
- C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction; or
- D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to provide closure and postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans.
- E) For a corrective action bond, fails to implement corrective action at a MSWLF unit in accordance with Section 811.326

## f) Amount:

- 1) The letter of credit must be issued in an amount at least equal to the current cost estimate.
- 2) The Agency shall approve a reduction in the amount whenever the

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current cost estimate decreases.

## g) Term:

- 1) The letter of credit must be issued for a term of at least five years and must be irrevocable during that term.
- 2) If the owner or operator fails to substitute alternative financial assurance prior to expiration of a letter of credit, the term of the letter of credit must be automatically extended for one twelve-month period starting with the date of expiration. During such extension, the letter of credit will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.

## h) Cure of default and refunds:

- 1) The Agency shall release the financial institution if, after the Agency is allowed to draw on the letter of credit, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at a MSWLF unit, unless the Agency determines that a plan or the amount of substituted financial assurance is inadequate to provide closure and postclosure care, or implement corrective action at a MSWLF unit, as required by this Part.
- 2) After closure and postclosure care have been completed in accordance with the closure and postclosure care plans and the requirements of this Part or after the completion of corrective action at a MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Postclosure Fund" by the financial institution.

BOARD NOTE: MSWLF corrective action language at subsection(a) is derived from 40 CFR 258.74(c)(1) (1994), as amended at 60 Fed. Reg. 17652 (Apr. 7, 1995). {#992} P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to April 9, 1997. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

(Source: Amended at 19 Ill. Reg. 12257, effective AUG 15 1995)

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1) Heading of the Part:

Grade A Pasteurized Milk and Milk Products

2) Code Citation:

77 Ill. Adm. Code 775

3) Section Numbers:

775.150

Adopted Action:

Amendment

4) Statutory Authority:

Implemented and authorized by the Grade A Pasteurized Milk and Milk Products Act (410 ILCS 635)

5) Effective Date of Amendments:

August 10, 1995

6) Does this Rulemaking Contain an Automatic Repeal Date? No7) Does this Rulemaking Contain Any Incorporations by Reference? No8) Date Filed in Agency's Principal Office:

August 10, 1995

9) Date Notice of Proposed Amendments was Published in the Illinois Register:

May 5, 1995; 19 Ill. Reg. 6294

10) Has the Joint Committee on Administrative Rules Issued a Statement of Objections to these Rules? No11) Differences Between Proposal and Final Version:

Various technical, editorial, and grammatical changes have been made in response to recommendations of the Joint Committee on Administrative Rules and the Administrative Code Division.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.



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13) Will the Rulemaking Replace an Emergency Rule Currently in Effect?

No

14) Are there any other Amendments Pending on this Part?

No

15) Summary and Purpose of Amendments:

To assist states and municipalities in initiating and maintaining effective programs for the prevention of milkborne disease, the Food and Drug Administration (FDA) in conjunction with the National Conference of Interstate Milk Shippers (NCIMS) adopted a model milk regulation, now titled the Grade A Pasteurized Milk Ordinance (PMO). All 50 states, the District of Columbia and U.S. Trust Territories participate in the NCIMS. In their administration of the PMO, states list milk processors in the Interstate Milk Shippers List (IMSL). Those processors listed can engage in interstate shipment of specified dairy products. In 1991, the NCIMS adopted regulations concerning drug residue monitoring and farm surveillance to provide strengthened drug residue monitoring and enforcement across the country. The dairy industry and the NCIMS, as well as the FDA, had been subject to intense scrutiny and public pressure to eliminate the risk of drug residues in the nation's milk supply.

In 1993 the substance of the federal regulations was promulgated by the Department as an amendment to Part 775. Pursuant to these rules, the Illinois Department of Public Health suspends immediately the permit of the responsible producer or producers for a minimum of 48 hours for the first occurrence and 96 hours for the second or third occurrence, with permit revocation procedures initiated following the third occurrence. Prior to the adoption of this rulemaking, during the suspension period the producer's milk may not be sold for purposes of human or animal consumption.

The PMO was subsequently amended to allow an equivalent penalty as determined by the regulatory agency. In 1994 Public Act 88-600 was signed, authorizing the Department of Public Health to establish in its rules an equivalent monetary penalty for Illinois producers. These amendments implement Public Act 88-600 by providing monetary penalties for drug residue violations that may be used as an alternative to the 48 or 96 hour milk withholding period following permit suspension. If the producer chooses an equivalent monetary penalty, the producer may sell milk that has been tested and no longer contains a violative drug residue. This will eliminate the destruction of potentially "good" milk that would have to be destroyed under a suspension period.

Public Act 88-600 also provided that any penalties collected as a result of a positive drug residue violation be deposited into the Food and Drug

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**Safety Fund.** The adopted rulemaking specifies that these funds will be used for drug residue avoidance programs, that will include producer education and providing information services, for the purpose of reducing and eliminating positive drug residues in the milk supply.

16) Information and Questions Regarding these Adopted Amendments Shall be Directed to:

Gail M. Devito  
Administrative Rules Coordinator  
Division of Governmental Affairs  
535 West Jefferson, 5th Floor  
Springfield, Illinois 62761  
(217) 782-6187

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 775  
GRADE A PASTEURIZED MILK AND MILK PRODUCTS

Section	
775.1	Minimum Regulations (Renumbered)
775.10	Definitions
775.20	Incorporated Materials
775.30	Minimum Requirements
775.40	Local Government Implementation
775.50	Permits
775.60	Suspension of Permits
775.70	Inspections and Investigations
775.80	Approval of Construction Plans
775.90	Administrative Hearings
775.100	Milk Haulers Examination
775.110	Milk Tank Trucks
775.120	Cleaning and Sanitizing Procedures
775.130	Action Levels for Added Water in Milk
775.140	Pesticide, Herbicide and Mycotoxin Residue Control Program
775.150	Drug Residue Control Program

AUTHORITY: Implementing and authorized by the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

SOURCE: Adopted and codified at 8 Ill. Reg. 4190, effective March 16, 1984; amended at 11 Ill. Reg. 1464, effective February 1, 1987; amended at 12 Ill. Reg. 17925, effective December 1, 1988; amended at 13 Ill. Reg. 14015, effective August 15, 1993; amended at 19 Ill. Reg. 12571, effective AUG 10 1995.

## Section 775.150 Drug Residue Control Program

- Equipment used to administer drugs and medicines shall not be cleaned in the wash vats and shall be stored so as not to contaminate the milk or milk contact surfaces of equipment.
- Drugs and medicines shall be stored in such a manner that they cannot contaminate the milk or milk product contact surface of the equipment, containers or utensils. Such products shall be properly labeled to include:
  - The name and address of the manufacturer or distributor (for O.T.C. medicines and drugs), or veterinary practitioner dispensing the product (for Rx and Extra-label use medicines and drugs); and
  - Directions for use, and prescribed holding times;

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- Cautionary statements, if needed; and
- Active ingredient(s) in the drug product.
- Unapproved and/or improperly labeled drugs and medicines shall not be used to treat dairy animals and shall not be stored in the milkhouse, milking barn, stable or parlor. Drugs and medicines intended for treatment of non-lactating dairy animals shall be segregated from those drugs and medicines used for lactating animals. (Separate shelves in cabinets, refrigerators, or other storage facilities satisfy this item.)
- Topical antiseptics, wound dressings (unless intended for direct injection into the teat), vaccines and other biologics, and dosage from vitamins and/or mineral products are exempt from labeling and storage requirements except when it is determined that they are stored in such a manner that they may contaminate the milk or milk product surfaces of containers or utensils.
- The following describes the Department's Drug residue control program for Grade A raw milk under Section 6 of the PMO.
  - If the analysis of a sample from a bulk milk pickup tanker or milk received directly from the farm bulk tank shows any drug residue at or above the tolerances and/or safe levels of drug residues as established by Appendix N of the PMO, then the individual sample collected from each producer's milk that was in the bulk milk pickup tanker is tested to determine which producer or producers have created or contributed to the drug residue.
  - When the individual sample testing is complete and the tests indicate a violative drug residue, the producer's or producers' Grade A permit will be summarily suspended. Another sample will be taken from milk produced after a 48 hour withholding period to determine whether this adulteration is continual. On the second and third occurrence of the violative drug residue in a 12 month period, the producer's Grade A permit will be summarily suspended. Another sample will be taken from milk produced after a 96 hour withholding period to determine whether this adulteration is continual. For the third occurrence of a drug residue in any 12 month period the Department shall initiate administrative procedures pursuant to revocation of the producer's permit.
  - If the resample taken after 48 or 96 hours, as applicable, shows no violative drug residue, the suspended Grade A permit will be conditionally reinstated for up to 30 days. The producer and a licensed veterinarian must complete a quality assurance (QA) program, within the 30 day conditional reinstatement of the Grade A permit.
  - When the field representative has transmitted to the Department a copy of the quality assurance program completion certificate, signed by the producer and a licensed veterinarian, the producer's Grade A permit shall be fully reinstated.

f) The following describes the alternative penalty procedures for the



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Department's drug residue control program for Grade A raw milk.

- 1) When individual sample testing for drug residues has been completed and test results indicate a violative drug residue, the producer's or producers' Grade A permit will be summarily suspended. The producer or producers may submit to the Department a written request for an equivalent penalty to the 48 hour withholding period for the first occurrence and 96 hour withholding period for the second and third occurrences. The equivalent penalty for the first occurrence shall be \$2.00 per hundred weight of the milk produced during the 48 hours following the violative shipment. The equivalent penalty for the second and third occurrences shall be \$4.00 per hundred weight of the milk produced during the 96 hours following the violative shipment. The penalty shall be paid to the Department by the first buyer of the milk, by the last day of the month immediately following the violation. Following the third occurrence of a drug residue violation in any twelve month period, the Department shall initiate administrative procedures, pursuant to Section 775.90 to permanently revoke the producer's permit.
- 2) The producer's Grade A permit will be conditionally reinstated for up to 30 days when a subsequent sample of the producer's milk does not contain a violative drug residue. The producer and a licensed veterinarian must complete a quality assurance (QA) program within the 30 day conditional reinstatement of the Grade A permit.
- 3) When the field representative has transmitted to the Department a copy of the quality assurance program completion certificate signed by the producer and a licensed veterinarian, the producer's Grade A permit shall be fully reinstated.
- 4) All monies collected through the drug residue control program and deposited in the Food and Drug Safety Fund will be dedicated to drug residue prevention efforts, producer education and providing information in the prevention of drug residues.

(Source: Amended 19 Ill. Reg. 12271, effective  
AUG 10 1995)

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- 1) Heading of the Part:  
Heart Disease Treatment and Prevention Fund Rules
- 2) Code Citation:  
77 Ill. Adm. Code 980
- 3) Section Numbers:  

980.10	New Section
980.20	New Section
980.30	New Section
980.40	New Section
980.50	New Section
980.60	New Section
980.70	New Section
980.80	New Section
980.90	New Section
980.100	New Section
980.110	New Section
980.120	New Section
- 4) Statutory Authority: Implementing and authorized by Section 55.76 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.76] (see P.A. 88-666, effective September 16, 1994).
- 5) Effective Date of Amendments: August 15, 1995
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain any Incorporation by Reference? No
- 8) Date Filed in Agency's Principal Office: August 15, 1995
- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: February 10, 1995; 19 Ill. Reg. 1224
- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? No
- 11) Difference Between Proposal and Final Version: Section 980.30 has been revised to specify that grants from the Heart Disease Treatment and Prevention Fund shall be awarded on the basis of merit and that the Department shall consider the recommendations of the peer review panel, when determining the eligibility of applicants.

Section 980.80 has been revised to require grantees to submit written

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narrative reports at the time of submission of each continuation application and/or at the completion of the project. The proposed rules unintentionally required grantees to submit a minimum of three progress reports to the Department.

In addition, various technical, editorial, and grammatical changes have been made in response to recommendations of the Joint Committee on Administrative Rules and the Administrative Code Division.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreement letter issued by the Joint Committee.
- 13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No
- 14) Are there any other Amendments Pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking implements Senate Bill 1693 (Public Act 88-666, effective September 16, 1994), which creates a new income tax checkoff for taxpayer contributions to the Heart Disease Treatment and Prevention Fund. The Public Act authorizes the Department to make grants from monies appropriated from the Heart Disease Treatment and Prevention Fund to public and private organizations in Illinois for the purposes of funding research into causes, prevention and treatment of heart disease and public education relating to treatment and prevention of heart disease. These rules establish application procedures and application review criteria for eligible institutions, guidelines for use of grants funds, contract monitoring criteria, and conditions for which a grant may be terminated.

- 16) Information and Questions Regarding these Adopted Amendments shall be directed to:

Gail M. DeVito  
Administrative Rules Coordinator  
Division of Governmental Affairs  
535 West Jefferson  
Springfield, Illinois 62761  
(217)782-6187

The full text of the Adopted Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER U: MISCELLANEOUS PROGRAMS AND SERVICES

## PART 980

## HEART DISEASE TREATMENT AND PREVENTION FUND RULES

Section	Definitions
980.10	Purpose
980.20	Eligibility
980.30	Application Procedures
980.40	Application Review Criteria
980.50	Notification of Award
980.60	Award and Use of Grant Funds
980.70	Monitoring Criteria
980.80	Contract Expiration
980.90	Termination of the Grant Agreement or Funding
980.100	Denial, Suspension or Revocation of Grant Application or Grant Agreement
980.110	Procedures for Hearings
980.120	

**AUTHORITY:** Implementing and authorized by Section 55.76 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.76] (see P.A. 88-666, effective September 16, 1994).

**SOURCE:** Adopted at 19 Ill. Reg. 12277, effective AUG 15 1995.

## Section 980.10 Definitions

"Act" means Section 55.76 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.76] (see P.A. 88-666, effective September 16, 1994).

"Applicant" means any eligible hospital, laboratory, educational institution, or other organization in Illinois, the intent of which is to conduct research into causes, prevention and treatment of heart disease or to conduct public education relating to treatment and prevention of heart disease.

"Cause" means that which brings about a particular condition, result or effect.

"Department" means the Illinois Department of Public Health.

"Detection" means a determination of the presence of heart disease.



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"Director" means the Director of the Illinois Department of Public Health.

"Fellowship" means supervised practical experience for an individual in a health care or scientific specialty beyond such experience required to earn a doctorate degree or, in the case of medicine, beyond such experience provided to hospital resident physicians to broaden expertise in the treatment of heart disease.

"Funding Period or Grant Agreement Period" means the time during which an award is to be spent in support of a particular research project or training course. The funding period may coincide with the Department's fiscal year.

"Governmental Unit Code" means the Illinois Comptroller's preassigned vendor identification number for governmental agencies and municipalities.

"Heart Disease" means any pathological condition of the heart.

"Not-for-Profit Corporation" means a corporation as described in the General Not-for-Profit Corporation Act of 1986 (805 ILCS 105).

"Peer Review Panel" means a group appointed by the Director, whose members demonstrate and are acknowledged to have expertise in areas dealing with heart disease research.

"Prevention" means the use of various techniques, including the adoption of specific health related habits or use of medications, to stop heart disease from developing in healthy individuals.

"Principal Investigator" means the person with prime responsibility or the lead person for conducting a research project.

"Project Period" means a minimum of one year and a maximum of three years (possibility of two continuation grants).

"Research" means a trained inquiry or experimentation related to investigating causes, prevention, and treatments for heart disease.

"Research Fund" means the Heart Disease Treatment and Prevention Fund which is a special fund in the State Treasury as described in the Act.

"Research Fund Checkoff" means a voluntary process by which an Illinois taxpayer may use a provision on the standard individual income tax form to contribute to the Heart Disease Treatment and Prevention Fund.

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"Research Grant" means funding provided to qualified principal investigators to investigate Specific questions related to heart disease research.

"Screening" means examining and testing for heart disease.

"TIN" means the nine digit Federal Taxpayer Identification Number; Federal Employer Identification Number (FEIN); Social Security Number; or Governmental Unit Code.

"Training and Continuing Education" means expanding or updating the knowledge of research scientists, health care professionals and other allied persons.

"Treatment" means the management and care of an individual for the purpose of combating heart disease.

**Section 980.20 Purpose**

The purpose of the Heart Disease Treatment and Prevention Fund is to make grants to public and private agencies for the purposes of funding research into causes, prevention, and treatment of heart disease and public education relating to treatment and prevention of heart disease. (Section 55.76 of the Act)

**Section 980.30 Eligibility**

From funds appropriated from the Heart Disease Treatment and Prevention Fund the Department shall award grants on the basis of merit. In determining eligibility, the Department shall consider the recommendations of the peer review panel.

**Section 980.40 Application Procedures**

The Department shall provide written application instructions to potential applicants upon request.

a) All applications shall include the following:

- 1) the principal investigator's name, address, and telephone number, and FAX and teletypewriter (TTY) numbers, if available;
- 2) the name, address, and telephone number, and FAX and TTY numbers of the entity (such as a university) through which the application is being submitted, if different from the information required in subsection (a)(1) of this Section;
- 3) the curriculum vitae of principal investigator;
- 4) a one-page, non-technical abstract that includes a description of the significance of the applicant's project for heart disease treatment and prevention;
- 5) the TIN;

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- 6) the signature of principal investigator or agency official authorized to certify the application;
- 7) the dates of the project period;
- 8) a detailed budget for the funding period, providing sufficient resources to carry out the project. The budget shall be by line item category and shall provide sufficient detail to justify the use of grant funds to support project activities. The applicant shall indicate the total cost of conducting the project(s), the anticipated funding request for the second and third years of the project (if applicable), the source of other funds supporting the project(s), and the amount of support requested from the Department;
- 9) a signed statement of assurances (as provided in the application packet) indicating compliance with applicable State requirements, such as the Fiscal Control and Internal Auditing Act, Bribery certification, contract debarment, unlawful discrimination, Illinois Human Rights Act, Federal Civil Rights Act, Drug Free Workplace Act, Davis-Bacon Act, conflict of interest as specified in the Illinois Purchasing Act, and protection of the confidentiality of services.
- b) In addition to the requirements of subsections (a)(1) through (9) of this Section, all initial applications shall include the following:
  - 1) a statement of whether funds are being requested for a fellowship or a general award;
  - 2) a statement of the research question or hypothesis, a description of the methods to be used to identify and select intervention(s) or model program(s) or a description of intervention(s) or model program(s) on which the project will be based;
  - 3) a prioritized listing of measurable objectives for the funding period;
  - 4) for each objective proposed for the first funding period of the project, a sequential listing of activities to achieve the objective, the time line for completing each activity, and identification of the individual responsible for coordinating the implementation of each objective; and
  - 5) a description of the evaluation methods to be used to measure progress in achieving objectives and a plan for monitoring the overall project.
- c) In addition to the requirements of subsections (a)(1) through (9) and (b)(1) through (5), all initial applications for a fellowship shall include the following:
  - 1) the name of the individual to be supported through the fellowship;
  - 2) the curriculum vitae of the individual; and
  - 3) at least one letter of recommendation from the principal investigator or agency official authorized to certify the application.
- d) In addition to the requirements of subsection (a)(1) through (9), all

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continuation applications shall include the following:

- 1) a progress report which contains a description of the findings to date as specified in subsection (b)(5) of this Section;
- 2) a description of the applicant's progress in meeting each project objective;
- 3) project objectives for the new funding period, along with activities and timelines for completion of each activity; and
- 4) any revisions in the evaluation methods or the monitoring plan along with the rationale for such revisions.

**Section 980.50 Application Review Criteria**

Applications shall be subject to a nontechnical and technical review as follows:

- a) Criteria for the nontechnical review shall include:
  - 1) adherence to the format specified in Section 980.40;
  - 2) inclusion of all required forms as specified in Section 980.40; and
  - 3) the inclusion of a response to each required item as specified in Section 980.40 for the particular type of application.
- b) The technical review shall be based on the following criteria:
  - 1) the activities identified by the applicant will lead to achievement of the objectives;
  - 2) the project objectives are achievable in the stated timeframe;
  - 3) the evaluation methods measure progress toward the identified objectives;
  - 4) the budget required in Section 980.40(a)(8) provides sufficient resources and justifies the need for funds to carry out the project; and
  - 5) continuation applicants have documented the status of each activity in support of the current year objectives and have provided an estimate of the extent to which each current year objective will be met.

**Section 980.60 Notification of Award**

- a) The Department may award an amount less than the amount requested in an application.
- b) Receipt of an award transmittal letter and grant agreement from the Department for signature by the applicant shall constitute notification of award.
- c) Applicants who have not been selected for funding shall be notified in writing by the Department.
- d) A grant agreement shall not be sold, assigned or transferred in any manner. Any actual or attempted sale, assignment or transfer shall render the grant agreement null. If the grantee ceases operation for any reason, the grant agreement shall be terminated.



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**Section 980.70 Award and Use of Grant Funds**

a) Grant funds awarded by the Department shall only be used for the direct cost of administering, operating and maintaining a project. The following direct costs are examples of those costs for which grant funds may be used, when specified in the grant agreement:

- 1) personal services costs, including gross salaries and employer paid fringe benefits for full-time and part-time employees of the project;
- 2) contractual services costs, including but not limited to, fees for consultants and specialists, exclusive of consultant services for patient care; conference registration fees; costs of repair and maintenance of furniture and equipment; postage and postal services; subscriptions; training and education costs; software; and telecommunications costs;
- 3) travel of personnel in carrying out authorized activities. Travel costs are the expenses for transportation, lodging and subsistence for personnel who are on travel status on official business for the applicant. Out-of-State travel requires prior written approval of the Department;
- 4) supplies/commodities as required for the operation of the project and that are directly related to its operation. Supplies include, but are not limited to, office, medical and educational supplies; equipment items costing less than \$100 each; and paper and printing; and
- 5) equipment directly related to the operation of the project. Equipment is defined as items costing over \$100 each, with a useful life of more than one year (see Section 20 of the State Finance Act (30 ILCS 105/20)). Equipment costs shall include all freight and installation costs. Purchase of equipment items, other than those included in the approved budget, require prior written approval from the Department.

b) Payments to the grantee shall be made on a reimbursement basis.

- 1) The grantee shall use the Department's Reimbursement Certification Form or a reasonable facsimile to request reimbursement.
- 2) The grantee shall document actual expenditures incurred for the purchase of goods and services necessary for conducting program activities.
  - A) Expenditures shall be itemized on the Reimbursement Certification Form in such a manner as to establish an audit trail for future verification of appropriate use of grant funds.
  - B) Each item claimed on the Reimbursement Certification Form must be based on an expenditure traceable through the grantee's internal accounting system and shall include:
    - i) the check number or internal ledger transfer code;
    - ii) the date of payment;

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- iii) the dates goods or services were received or the period covered;
- iv) a description of the goods or services for gross amount of the check or transfer; and
- v) the amount claimed for reimbursement from the Department.

3) The grantee shall submit requests for reimbursement monthly or quarterly throughout the period of the grant. The final request for reimbursement shall be submitted within 45 calendar days after the end of the grant agreement period.

4) Requests for budget adjustments shall be submitted to the Department in writing and shall be received by the Department no later than 45 calendar days before the end of the grant agreement period.

**Section 980.80 Monitoring Criteria**

Grantees will be required to submit to the Department written narrative reports of progress towards achieving project objectives and shall make such reports available for presentation before the peer review panel. Reports shall be submitted at the time of submission of each continuation application and at the time of completion of the project.

**Section 980.90 Contract Expiration**

All projects shall end on the date specified in the grant agreement and shall not be extended or renewed. A continuation application as provided for in Section 980.40(d) may result in a new grant agreement with a new expiration date.

**Section 980.100 Termination of the Grant Agreement or Funding**

- a) The grant agreement may be terminated by either party upon 30 calendar days written notice to the other party as specified in the grant agreement.
- b) The grant agreement may be terminated immediately without penalty of further payment being required if the Illinois General Assembly fails to appropriate or otherwise make available sufficient funds for the award or if sufficient funds are not available in the Research Fund.
- c) The Department shall be empowered to suspend funding or terminate the contract of a grantee who has substantially failed to comply with this Part or the terms and conditions of the grant agreement.

**Section 980.110 Denial, Suspension or Revocation of Grant Application or Grant Agreement**

- a) The Director, after notice and opportunity for hearing, may deny the application for grant funds or suspend or revoke the grant agreement

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of any grantee in any case in which the Director finds substantial or continued failure to comply with this Part. If, however, the Director finds that the public interest, health, safety, or welfare requires emergency action and if the Director incorporates a finding to that effect in the order, summary suspension of the grant agreement may be ordered pending proceedings for revocation. Such proceedings shall be promptly instituted and promptly determined.

- b) Such notice shall be made by certified mail or by personal service and shall set forth the particular reasons for the proposed action and provide the grantee with an opportunity to request a hearing. If a written hearing request is not received within 10 days of receipt of the notice by the grantee, the right to a hearing is waived.

**Section 980.120 Procedures for Hearings**

The Department's "Rules of Practice and Procedure in Administrative Hearings" (77 Ill. Adm. Code 100) shall apply to all proceedings conducted under this Part, with the exception that where the terms "license" and "licensing" are used in Part 100, the definitions of those terms shall be expanded to include any grantee awarded funds pursuant to this Part and any grant agreement executed pursuant to this Part.

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- 1) Heading of the Part: Hemophilia Treatment Fund Rules

- 2) Code Citation: 77 Ill. Adm. Code 990

- 3) Section Numbers: Adopted Action:

390.10	New Section
390.20	New Section
390.30	New Section
390.40	New Section
390.50	New Section
390.60	New Section
390.70	New Section
390.80	New Section
390.90	New Section
390.100	New Section
390.110	New Section
390.120	New Section

- 4) Statutory Authority: Implementing and authorized by Section 55.77 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.77] (see P.A. 88-666, effective September 16, 1994).
- 5) Effective Date of Amendments: August 15, 1995
- 6) Does this Rulemaking Contain an Automatic Repeal Date? No
- 7) Does this Rulemaking Contain any Incorporation by Reference? No
- 8) Date Filed in Agency's Principal Office: August 15, 1995
- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: February 10, 1995; 19 Ill. Reg. 1234
- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking: No
- 11) Difference Between Proposal and Final Version: Section 990.80 has been revised to require grantees to submit written narrative reports at the time of submission of each continuation application and/or at the completion of the project. The proposed rules unintentionally required grantees to submit a minimum of three progress reports to the Department.  
  
In addition, various technical, editorial, and grammatical changes have been made in response to recommendations of the Joint Committee on Administrative Rules and the Administrative Code Division.
- 12) Have all the changes agreed upon by the Agency and the Joint Committee

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been made as indicated in the agreement letter issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreement letter issued by the Joint Committee.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking implements Senate Bill 1693 (Public Act 88-666, effective September 16, 1994), which creates a new income tax checkoff for taxpayer contributions to the Hemophilia Treatment Fund. The Public Act authorizes the Department to make grants from monies appropriated from the Hemophilia Treatment Fund to public and private organizations in Illinois for the purpose of treatment of hemophilia. These rules establish application procedures and application review criteria for eligible institutions, guidelines for use of grants funds, contract monitoring criteria, and conditions for which a grant may be terminated.

16) Information and Questions Regarding these Adopted Rulemakings shall be directed to:

Gail M. DeVito  
Administrative Rules Coordinator  
Division of Governmental Affairs  
535 West Jefferson  
Springfield, IL 62761  
(217) 782-6187

The full text of the Adopted Rules begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

## PART 990

## HEMOPHILIA TREATMENT FUND RULES

Section	Definitions
990.10	Definitions
990.20	Purpose
990.30	Eligibility
990.40	Application Procedures
990.50	Application Review Criteria
990.60	Notification of Award
990.70	Award and Use of Grant Funds
990.80	Monitoring Criteria
990.90	Contract Expiration
990.100	Termination of the Grant Agreement or Funding
990.110	Denial, Suspension or Revocation of Grant Application or Grant Agreement
990.120	Procedures for Hearings

AUTHORITY: Implementing and authorized by Section 55.77 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.77] (see P.A. 88-666, effective September 16, 1994).

SOURCE: Adopted at 19 Ill. Reg. 12287, effective AUG 15 1995.

## Section 990.10 Definitions

"Act" means Section 55.77 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.77] (see P. A. 88-666, effective September 16, 1994).

"Applicant" means any eligible public or private statewide hemophilia organization in Illinois, the intent of which is to provide funds for the treatment or the administration of treatment to individuals with hemophilia.

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health.

"Funding Period or Grant Agreement Period" means the time during which an award is to be spent in support of a particular project. The funding period may coincide with the Department's fiscal year.



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"General Award" means presentation of funds by the Department to an applicant.

"Governmental Unit Code" means the Illinois Comptroller's preassigned vendor identification number for governmental agencies and municipalities.

"Hemophilia" means an abnormal bleeding tendency resulting from a genetically determined deficiency in the blood.

"Hemophilia Treatment Fund Checkoff" means a voluntary process by which an Illinois taxpayer may use a provision on the standard individual income tax form to contribute to the Hemophilia Treatment Fund.

"TIN" means the nine digit Federal Taxpayer Identification Number; Federal Employer Identification Number (FEIN); Social Security Number; or Governmental Unit Code.

"Treatment" means the management and care of individuals with hemophilia.

#### Section 990.20 Purpose

The purpose of grants from the Hemophilia Treatment Fund is to provide funds to public and private statewide hemophilia organizations for the purpose of treatment or the administration of treatment to individuals with hemophilia.

#### Section 990.30 Eligibility

*From funds appropriated from the Hemophilia Treatment Fund, the Department of Public Health shall award grants to eligible public and private Statewide hemophilia organizations. (Section 55.77 of the Act)*

#### Section 990.40 Application Procedures

The Department shall provide written application instructions to potential applicants upon request.

- a) All applications shall include the following:
  - 1) the applicant's name, address, and telephone number, and FAX number, if available;
  - 2) a one-page, non-technical abstract including a description of the significance of the applicant's project;
  - 3) the TIN;
  - 4) the signature of an agency official authorized to certify the application;
  - 5) the dates of the project period;
  - 6) a detailed budget for the funding period, providing sufficient

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resources to carry out the project. The budget shall be by line item category and shall provide sufficient detail to justify the use of grant funds to support project activities. The applicant shall indicate the total cost of conducting the project(s), the anticipated funding request for the second and third years of the project (if applicable), the source of other funds supporting the project(s), and the amount of support requested from the Department;

- 7) a signed statement of assurances (as provided in the application packet) indicating compliance with applicable State requirements, such as the Fiscal Control and Internal Auditing Act, bribery certification, contract debarment, unlawful discrimination, Illinois Human Rights Act, Federal Civil Rights Act, Drug Free Workplace Act, Davis-Bacon Act, conflict of interest as specified in the Illinois Purchasing Act, and the protection of the confidentiality of services.
- b) In addition to the requirements of subsections (a)(1) through (7) of this Section, all initial applications shall include the following:
  - 1) a prioritized listing of measurable objectives for the funding period;
  - 2) for each objective proposed for the first year of the project, a sequential listing of activities to achieve the objective, the time line for completing each activity, and identification of the individual responsible for coordinating the implementation of each objective; and
  - 3) a description of the evaluation methods to be used to measure progress in achieving objectives and a plan for monitoring the overall project.
- c) In addition to the requirements of subsections (a)(1) through (7) of this Section, all continuation applications shall include the following:
  - 1) a progress report which contains a description of the findings to date as specified in subsection (b)(3) of this Section;
  - 2) a description of the applicant's progress in meeting each project objective;
  - 3) project objectives for the new funding period, along with activities and time lines for completion of each activity; and
  - 4) any revisions in the evaluation methods or the monitoring plan along with the rationale for such revisions.

#### Section 990.50 Application Review Criteria

Applications shall be subject to a non-technical and technical review as follows:

- a) Criteria for the non-technical review shall include:
  - 1) adherence to the format specified in Section 990.40;
  - 2) inclusion of all required forms as specified in Section 990.40; and

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- 3) the inclusion of a response to each required item as specified in Section 990.40.
- b) The technical review shall be based on the following criteria:
  - 1) the activities identified by the applicant will lead to achievement of the objectives;
  - 2) the project objectives are achievable in the stated time frame;
  - 3) the evaluation methods measure progress toward the identified objectives;
  - 4) the budget required in Section 990.40 (a)(6) provides sufficient resources and justifies the need for funds to carry out the project; and
  - 5) continuation applicants have documented the status of each activity in support of the current year objectives and have provided an estimate of the extent to which each current year objective will be met.

**Section 990.60 Notification of Award**

- a) The Department may award an amount less than the amount requested in an application.
- b) Receipt of an award transmittal letter and grant agreement from the Department for signature by the applicant shall constitute notification of award.
- c) Applicants who have not been selected for funding shall be notified in writing by the Department.
- d) A grant agreement shall not be sold, assigned or transferred in any manner. Any actual or attempted sale, assignment or transfer shall render the grant agreement null, void and of no further effect. If the grantee for whatever reason ceases operation, the grant agreement shall be terminated.

**Section 990.70 Award and Use of Grant Funds**

- a) Grant funds awarded by the Department shall only be used for the direct cost of administering, operating and maintaining a project to provide treatment or the administration of treatment to individuals with hemophilia. The following direct costs are examples of those for which grant funds may be used, when specified in the grant agreement:
  - 1) personal services costs, including gross salaries and employer paid fringe benefits for full-time and part-time employees of the project;
  - 2) contractual services costs, including but not limited to, fees for consultants and specialists, exclusive of consultant services for patient care; training and education costs; software; and telecommunications costs;
  - 3) travel of personnel in carrying out authorized activities. Travel costs are the expenses for transportation, lodging and subsistence for personnel who are on travel status on official

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- business for the applicant. Out-of-State travel requires prior written approval of the Department;
- 4) supplies/commodities, as required, which may include medical and educational supplies.
- b) Payments to the grantee shall be made on a reimbursement basis.
  - 1) The grantee shall use the Department's Reimbursement Certification Form or a reasonable facsimile to request reimbursement.
  - 2) The grantee shall document actual expenditures incurred for the purchase of goods and services necessary for conducting program activities.
    - A) Expenditures shall be itemized on the Reimbursement Certification Form in such a manner as to establish an audit trail for future verification of appropriate use of grant funds.
    - B) Each item claimed on the Reimbursement Certification Form must be based on an expenditure traceable through the grantee's internal accounting system and shall include:
      - i) the check number or internal ledger transfer code;
      - ii) the date of payment;
      - iii) the dates goods or services were received or the period covered;
      - iv) a description of the goods or services for gross amount of the check or transfer; and
      - v) the amount claimed for reimbursement from the Department.
  - 3) The grantee shall submit requests for reimbursement monthly or quarterly throughout the period of the grant. The final request for reimbursement shall be submitted within 45 calendar days after the end of the grant agreement period.
  - 4) Requests for budget adjustments shall be submitted to the Department in writing and shall be received by the Department no later than 45 calendar days before the end of the grant agreement period.

**Section 990.80 Monitoring Criteria**

Grantees will be required to submit to the Department written narrative reports of progress towards achieving project objectives and shall make such reports available for presentation before representatives of the Department. Reports shall be submitted at the time of submission of each continuation application and/or at the completion of the project.

**Section 990.90 Contract Expiration**

All projects shall end on the date specified in the grant agreement and shall not be extended or renewed. A continuation application as provided for in Section 990.40(c) may result in a new grant agreement with a new expiration

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date.

**Section 990.100 Termination of the Grant Agreement or Funding**

- a) The grant agreement may be terminated by either party upon 30 calendar days written notice to the other party as specified in the grant agreement.
- b) The grant agreement may be terminated immediately without penalty of further payment being required if the Illinois General Assembly fails to appropriate or otherwise make available sufficient funds for the award or if sufficient funds are not available in the Hemophilia Treatment Fund.
- c) The Department shall be empowered to suspend funding or terminate the contract of a grantee who has substantially failed to comply with this Part or the terms and conditions of the grant agreement.

**Section 990.110 Denial, Suspension or Revocation of Grant Application or Grant Agreement**

- a) The Director, after notice and opportunity for hearing, may deny the application for grant funds or suspend or revoke the grant agreement of any grantee in any case in which the Director finds substantial or continued failure to comply with this Part. If, however, the Director finds that the public interest, health, safety, or welfare requires emergency action and if the Director incorporates a finding to that effect in the order, summary suspension of the grant agreement may be ordered pending proceedings for revocation. Such proceedings shall be promptly instituted and promptly determined.
- b) Such notice shall be made by certified mail or by personal service and shall set forth the particular reasons for the proposed action and provide the grantee with an opportunity to request a hearing. If a written hearing request is not received within 10 days after receipt of the notice by the grantee, the right to a hearing is waived.

**Section 990.120 Procedures for Hearings**

The Department's "Rules of Practice and Procedure in Administrative Hearings" (77 Ill. Adm. Code 100) shall apply to all proceedings conducted under this Part, with the exception that where the terms "license" and "licensing" are used in Part 100, the definitions of those terms shall be expanded to include any grantee awarded funds pursuant to this Part and any grant agreement executed pursuant to this Part.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Manufactured Dairy Products

- 2) Code Citation: 77 Ill. Adm. Code 785

- 3) Section Numbers:  
785.1220  
Adopted Action:  
Amendment

- 4) Statutory Authority: Implemented and authorized by the Illinois Food, Drug and Cosmetic Act (410 ILCS 620).

- 5) Effective Date of Amendments: August 10, 1995

- 6) Does this Rulemaking Contain an Automatic Repeal Date? No

- 7) Does this Rulemaking Contain Any Incorporations by Reference? No

- 8) Date Filed in Agency's Principal Office: August 10, 1995

- 9) Date Notice of Proposed Amendments was Published in the Illinois Register: 19 Ill. Reg. 6300, May 5, 1995

- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objections to these Rules? No

- 11) Differences Between Proposal and Final Version: Various technical, editorial, and grammatical changes have been made in response to recommendations of the Joint Committee on Administrative Rules and the Administrative Code Division.

- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? The Department has made all the changes to which it agreed with the Joint Committee.

- 13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

- 14) Are there any other Amendments Pending on this Part? No

- 15) Summary and Purpose of Amendments: To assist states and municipalities in initiating and maintaining effective programs for the prevention of milkborne disease, the Food and Drug Administration (FDA) in conjunction with the National Conference of Interstate Milk Shippers (NCIMS) adopted a model milk regulation, now titled the Grade A Pasteurized Milk Ordinance (PMO). All 50 states, the District of Columbia and U.S. Trust Territories participate in the NCIMS. In their administration of the PMO, states list milk processors in the Interstate Milk Shippers List (IMSL). Those processors listed can engage in interstate shipment of specified dairy



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products. In 1991, the NCIMS adopted regulations concerning drug residue monitoring and farm surveillance to provide strengthened drug residue monitoring and enforcement across the country. The dairy industry and the NCIMS, as well as the FDA, had been subject to intense scrutiny and public pressure to eliminate the risk of drug residues in the nation's milk supply.

In 1993 the substance of the federal regulations was promulgated by the Department as an amendment to Part 775. Pursuant to these rules, the Illinois Department of Public Health suspends immediately the permit of the responsible producer or producers for a minimum of 48 hours for the first occurrence and 96 hours for the second or third occurrence, with permit revocation procedures initiated following the third occurrence. Prior to the adoption of this rulemaking, during the suspension period the producer's milk may not be sold for purposes of human or animal consumption.

The PMO was subsequently amended to allow an equivalent penalty as determined by the regulatory agency. In 1994 Public Act 88-600 was signed, authorizing the Department of Public Health to establish in its rules an equivalent monetary penalty for Illinois producers. These amendments implement Public Act 88-600 by providing monetary penalties for drug residue violations that may be used as an alternative to the 48 or 96 hour milk withholding period following permit suspension. If the producer chooses an equivalent monetary penalty, the producer may sell milk that has been tested and no longer contains a violative drug residue. This will eliminate the destruction of potentially "good" milk that would have to be destroyed under a suspension period.

Public Act 88-600 also provided that any penalties collected as a result of a positive drug residue violation be deposited into the Food and Drug Safety Fund. The adopted rulemaking specifies that these funds will be used for drug residue avoidance programs, that will include producer education and providing information services, for the purpose of reducing and eliminating positive drug residues in the milk supply.

16) Information and Questions Regarding these Adopted Amendments Shall be Directed to:

Gail M. DeVito  
Administrative Rules Coordinator  
Division of Governmental Affairs  
535 West Jefferson, 5th Floor  
Springfield, IL 62761  
(217) 782-6187

The full text of the Adopted Amendments begins on the next page.

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 785  
MANUFACTURED DAIRY PRODUCTS

## SUBPART A: DEFINITIONS

Section	Meaning of Words
785.100	Definitions
785.110	Incorporated Materials
785.120	

SUBPART B: ILLINOIS QUALITY REQUIREMENTS FOR MILK FOR MANUFACTURING PURPOSES

Section	
785.200	Basis
785.210	Appearance and Odor
785.220	Sediment Content Classification
785.230	Bacterial Estimate Classification
785.240	Rejected Milk
785.250	Excluded Milk
785.260	Quality Testing of Milk from New Producers
785.270	Record of Tests
785.280	Field Service
785.290	Abnormal Milk

## SUBPART C: REQUIREMENTS FOR FARMS PRODUCING MILK FOR MANUFACTURING

Section	
785.300	Health of Herd
785.310	Milking Facility and Housing
785.320	Milking Procedure
785.330	Cooling
785.340	Milkhouse or Milkroom
785.350	Utensils and Equipment
785.355	Protection from Contamination
785.360	Water Supply
785.370	Sewage Disposal
785.380	Qualifications for Farm Licensing

## SUBPART D: REQUIREMENTS FOR LICENSED DAIRY PLANTS

Section	
785.400	General Requirements
785.405	Buildings

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785.410 Facilities  
785.415 Equipment and Utensils  
785.420 Personnel Cleanliness  
785.425 Personnel Health  
785.430 Protection and Transportation of Raw Milk and Cream  
785.435 Raw Product Storage  
785.440 Pasteurization or Sterilization  
785.445 Composition and Wholesomeness  
785.450 Cleaning and Sanitizing Treatment  
785.455 Insect and Rodent Control Program  
785.460 Plant Records  
785.465 Packaging and General Identification  
785.470 Storage of Finished Product  
785.475 Qualification for Plant Licensing

SUBPART E: SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING, PROCESSING  
AND PACKAGING INSTANT NONFAT DRY MILK, NONFAT DRY MILK, DRY WHOLE MILK, DRY  
BUTTERMILK, DRY WHEY, AND OTHER DRY MILK PRODUCTS

Section  
785.500 Rooms and Compartments - Dry Storage of Product  
785.503 Packaging Room for Bulk Products  
785.506 Hopper or Dump Room  
785.509 Repackaging Room  
785.512 Equipment and Utensils - General Construction, Repair, and Installation  
785.515 Preheaters  
785.518 Hotwells  
785.521 Evaporators and/or Vacuum Pans  
785.524 Surge Tanks  
785.527 High Pressure Pumps and Lines  
785.530 Dryers  
785.533 Collectors and Conveyors  
785.536 Dry Dairy Product Cooling Equipment  
785.539 Special Treatment Equipment  
785.542 Sifters  
785.545 Portable and Stationary Bulk Bins  
785.548 Automatic Sampling Device  
785.551 Dump Hoppers, Screens, Mixers and Conveyors  
785.554 Filler and Packaging Equipment  
785.557 Heavy Duty Vacuum Cleaners  
785.560 Clothing and Shoe Covers  
785.563 Operations and Operating Procedures - Pasteurization  
785.566 Condensed Surge Supply  
785.569 Condensed Storage Tanks  
785.572 Drying  
785.575 Cooling Dry Products  
785.578 Packaging, Repackaging and Storage

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785.1220	

AUTHORITY: Implementing and authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620].

SOURCE: Filed as amended June 13, 1972, effective June 26, 1972, and August 14, 1972; codified at 8 Ill. Reg. 18491; Part repealed, new Part adopted at 11 Ill. Reg. 2356, effective February 1, 1987; amended at 17 Ill. Reg. 14027, effective August 15, 1993; amended at 19 Ill. Reg. 12295, effective

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## SUBPART K: ADMINISTRATIVE PROCEDURES

## Section 785.1220 Drug Residue Monitoring and Farm Surveillance

The following describes the Department's Drug Residue Monitoring and Farm Surveillance Program. It is established to reference safe levels and/or tolerances and to assure milk supplies are in compliance with these safe levels or established tolerances for drug residues in milk.

- a) Industry Responsibilities
- 1) Monitoring and Surveillance



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occurrences occurrence of the violative drug residue in a 12 month period, the producer's manufactured raw milk Grade-A permit will be summarily suspended. Another sample will be taken from milk produced after a 96 hour withholding period to determine whether this adulteration is continual. For the third occurrence of a drug residue in any 12 month period the Department shall initiate administrative procedures pursuant to revocation of the producer's permit. If the resample shows no violative drug residue, the permit will then be conditionally reinstated until such time as the producer and a licensed veterinarian have completed a quality assurance program, but in no case for greater than 30 days.

3) The following describes the alternative penalty procedures for the Department's drug residue control program for manufactured raw milk.

A) When individual sample testing for drug residues has been completed and test results indicate a violative drug residue, the producer's or producers' manufactured raw milk permit will be summarily suspended. The producer or producers may submit to the Department a written request for an equivalent penalty to the 48 hour withholding period for the first occurrence and 96 hour withholding period for the second and third occurrences. The equivalent penalty for the first occurrence shall be \$2.00 per hundred weight of the milk produced during the 48 hours following the violative shipment. The equivalent penalty for the second and third occurrences shall be \$4.00 per hundred weight of the milk produced during 96 hours following the violative shipment. The penalty shall be paid to the Department by the first buyer of the milk, by the last day of the month immediately following the violation. Following the third occurrence of drug residue violation in any twelve month period, the Department shall initiate administrative procedures, pursuant to Section 775.90, to permanently revoke the producer's permit.

B) The producer's manufactured raw milk permit will be conditionally reinstated for up to 30 days when a subsequent sample of the producer's milk does not contain a violative drug residue. The producer and a licensed veterinarian must complete a quality assurance (QA) program within the 30 day conditional reinstatement of the manufactured raw milk permit.

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A) Industry shall screen all bulk milk pick-up tankers for beta lactam drug residues. Additionally, other drug residues shall be screened for by employing a random sampling program on bulk milk pick-up tankers. The random bulk milk pick-up tanker sampling program shall represent and include, during any six months, at least four (4) samples collected in at least four (4) separate months. Samples shall be analyzed as specified by the Department.

B) Bulk milk pick-up tanker testing shall be completed prior to processing the milk. Bulk milk pick-up tanker samples found to have a violative drug residue shall be retained as determined necessary by the Department. Industry shall also record all sample results and retain such records for a period of six months.

2) Reporting and Farm Traceback

A) When a bulk milk pick-up tanker is found to have a violative drug residue, the Department shall be immediately notified of the results and the ultimate disposition of the raw milk.

B) The individual sample collected from each producer's milk that was in the bulk milk pick-up tanker that was found to have a violative drug residue shall be immediately tested to determine which producer or producers have created or contributed to the drug residue.

C) Further pickups of the violative individual producer or producers shall be immediately discontinued until such time that subsequent tests no longer indicate violative drug residues and enforcement requirements of subsection (b)(2) of this Section have been met.

b) Department Responsibilities

1) Monitoring and Surveillance

A) The Department shall monitor industry surveillance activities by making unannounced on-site inspections to collect samples from bulk milk pick-up tankers and to review industry records of the random sampling program.

B) The Department shall also perform routine sampling and testing for drug residues determined to be necessary.

2) Enforcement

A) If testing reveals violative drug residues, the milk shall be disposed of in a manner that removes it from the human or animal food chain except where reconditioned under Department approval.

B) When the individual testing as required in subsection (a)(2)(B) of this Section is complete and the tests indicate any drug residue at or above the tolerance and/or safe levels, the producer's permit will be summarily suspended. Another sample will be taken from milk produced after a 48 hour withholding period to determine whether this adulteration is continual. On the second and third

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- C) When the field representative has transmitted to the Department a copy of the quality assurance program completion certificate signed by the producer and a licensed veterinarian, the producer's manufactured raw milk permit shall be fully reinstated.
- 4) All monies collected through the drug residue control program shall be deposited in the Food and Drug Safety Fund and will be dedicated to drug residue prevention efforts, producer education and providing information for the prevention of drug residue.
- c) Established Tolerances and/or Safe Levels of Drug Residues
- 1) Tolerances for drugs which may result in milk are set forth in 21 CFR 556 (1991).
  - 2) "Safe levels" are used by the Department for prosecutorial discretion. They do not legalize residues found in milk that are below the safe level. Safe levels as established by the Federal Food and Drug Administration will be transmitted by the Department via Technical Releases.

(Source: Amended at 19 Ill. Reg. 12295, effective AUG 10 1995 )

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- 1) Heading of the Part: Appeal of Foster Family Home License Denials by Relative Caregivers
- 2) Code Citation: 89 Ill. Adm. Code 338
- 3) Section Numbers: Emergency Action:
 

338.10	New
338.20	New
338.30	New
338.40	New
338.50	New
338.60	New
338.70	New
338.80	New
338.90	New
338.100	New
338.110	New
338.120	New
338.130	New
338.140	New
338.150	New
338.160	New
338.170	New
338.180	New
- 4) Statutory Authority: Section 5 of the Children and Family Services Act [20 ILCS 505/5], as amended by Public Act 89-21
- 5) Effective Date of Rules: August 11, 1995
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable.
- 7) Date Filed in Agency's Principal Office: August 11, 1995
- 8) Reason for Emergency: Public Act 89-21, which was enacted June 6, 1995, specifically amended the Illinois Administrative Procedure Act to find that the State's current financial situation constitutes an emergency and to allow State agencies to enact emergency rulemaking to implement the purposes of the Act. Public Act 89-21 also provides for the home of relative reforms which includes the right to appeal certain Department decisions.
- 9) A Complete Description of the Subjects and Issues Involved: These rules describe the appeal process for relatives who provide care for related children for whom the Department of Children and Family Services is

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legally responsible and who are denied licensure as a foster family home under the provisions of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes. These rules also provide a temporary appeal process for those relative caregivers who received notice prior to July 1, 1995 that their foster care payments were to be reduced to the Illinois Department of Public Aid child only standard of need amount, but the relative asserts that the home is already licensed or that the home was approved and an application for licensure as a foster family home was made prior to July 1, 1995 and had not yet been denied.

- 10) Are there any proposed amendments to this Part pending? No
- 11) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].
- 12) Information and questions regarding these rules shall be directed to:  
 Jacqueline Nottingham  
 Chief, Office of Rules and Procedures  
 Department of Children and Family Services  
 406 East Monroe, Station # 222  
 Springfield, Illinois 62701-1498  
 (217) 524-1983 or TTY: (217) 524-3715

The full text of the emergency rules begins on the next page:

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TITLE 89: SOCIAL SERVICES  
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
 SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

## PART 338

## APPEAL OF FOSTER FAMILY HOME LICENSE DENIALS BY RELATIVE CAREGIVERS

Section	Purpose
338.10	EMERGENCY
338.20	Definitions
EMERGENCY	
338.30	Who May Appeal
EMERGENCY	
338.40	What May Be Appealed
EMERGENCY	
338.50	What May Not Be Appealed
EMERGENCY	
338.60	Concurrent Jurisdiction
EMERGENCY	
338.70	Notices of Department Decisions
EMERGENCY	
338.80	The Appeal Process
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338.90	Internal Review
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338.100	The Administrative Hearing
EMERGENCY	
338.110	Rights and Responsibilities in Administrative Hearings
EMERGENCY	
338.120	Rules of Evidence
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338.130	The Administrative Law Judge
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338.140	Combined or Separate Hearings
EMERGENCY	
338.150	Final Administrative Decision
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338.160	Records of Administrative Hearings
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338.170	Severability of This Part
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338.180	Transition Provisions
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AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act (20 ILCS 505/5).



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SOURCE: Emergency rules adopted at 19 Ill. Reg. **12305**, effective August 11, 1995, for a maximum of 150 days.

#### Section 338.10 Purpose EMERGENCY

The purpose of these rules is to explain the internal review and administrative hearing process for relative caregivers providing full-time care to children for whom the Department of Children and Family Services is legally responsible who apply for and are denied a foster family home license. This includes license denials based on background checks, including child abuse/neglect and criminal history information.

#### Section 338.20 Definitions EMERGENCY

"Administrative hearing" in the context of this Part means a formal review of the Department's decision to deny a foster family home license to the relative who is serving as caregiver of children for whom the Department is legally responsible.

"Administrative law judge" means the person who is appointed by the Director of the Department and is responsible for conducting the fair hearing.

"Administrator of the Administrative Hearings Unit" means the person who is responsible for coordinating the administrative hearing appeal process.

"Appeal file" means the correspondence, statements, reports, investigative files, documents and other written material submitted to the Administrative Hearings Unit and the appellant after the commencement of the appeal. It does not include any documents or other material which may be in the custody of any other unit of DCFS, unless the document or material has been submitted to both the appellant and the Administrative Hearings Unit.

"Appellant" means the person who requests a review or administrative hearing or in whose behalf a review and administrative hearing is requested.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, or guardianship via court order, or children whose parent(s) has signed an adoptive surrender or voluntary placement agreement with the Department.

"Date of action" means the date on which any Department action becomes

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effective.

"Date of appeal" is the postmark date on the appellant's request to appeal the Department's decision to deny the application for a foster family home license. "Date of notice" means the date of the written notice of the Department's decision.

"Department's representative" means the person who is responsible for presenting the Department's case.

"Final administrative decision" means the Department's final decision, order or determination on an appealed issue rendered by the Director in a particular case, which affects the legal rights, duties or privileges of participants and which may be further appealed to the circuit court under the Administrative Review Law.

"Full-time care" means the child is a resident of the household, whether on a temporary, emergency, or permanent basis, and is receiving family care usually provided by a parent or guardian.

"License" means a document issued by the Department of Children and Family Services which authorizes a relative caregiver to operate a foster family home in accordance with 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, and the provisions of the Child Care Act of 1969 and rules promulgated thereunder.

"Party" to any administrative hearing or other proceeding in the Department is the Department or the appellant as the case may be.

"Relative" for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or
- is the spouse of such a relative, or
- is the child's step-father, step-mother, or adult step-brother or step-sister.

*Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person.* [20 ILCS 505/7(b)]

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**Section 338.30 Who May Appeal  
EMERGENCY**

- a) Relative caregivers who have full-time care and custody of a related child for whom the Department is legally responsible have the right to appeal the denial of an application for a foster family home license.
- b) If an appellant has an authorized representative or an individual legally acting on the appellant's behalf, that representative or individual may exercise the rights of the appellant in the appeal process. These rights include the right to:
  - 1) review and copy record material;
  - 2) receive Department notices;
  - 3) speak in the administrative hearing process; and
  - 4) take any other actions permitted an appellant during the appeal process.

**Section 338.40 What May Be Appealed  
EMERGENCY**

Relative caregivers providing full-time care to related children who have applied for a foster home license and been denied licensure may appeal the denial of a foster family home license.

**Section 338.50 What May Not Be Appealed  
EMERGENCY**

The following circumstances are not appropriate for the appeal process:

- a) when the Department has already made a final administrative decision on the issue as a result of a previous appeal;
- b) when a court has made a judicial decision on the issue being appealed; or
- c) when the appellant has not met the time frame for requesting an appeal.

**Section 338.60 Concurrent Jurisdiction  
EMERGENCY**

If an appeal may be filed under either 89 Ill. Adm. Code 337, Service Appeal Process, or under this Part, the appeal shall be heard under this Part.

**Section 338.70 Notices of Department Decisions  
EMERGENCY**

- a) Relative caregivers who apply for a foster family home license have a right to receive a written notice informing them:
  - 1) whether their application for licensure is approved or denied;
  - 2) if denied, the reason for the denial;
  - 3) of their right to appeal a denial of their application; and

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- 4) how to file an appeal.
- b) All written notices used in this Part shall be in the appellant's primary language.
- c) The following notices shall be hand delivered with a certificate of delivery or sent by certified mail, return receipt requested, to "the addressee only":
  - 1) the final administrative decision that no genuine issue of material fact exists;
  - 2) the final administrative decision of an administrative hearing; and
  - 3) the first notice of hearing.
- d) All other notices referenced in this Part shall be sent by regular mail.

**Section 338.80 The Appeal Process  
EMERGENCY**

- a) To begin the appeal process the relative caregiver shall request in writing that the Department review its decision to deny the application for license as a foster family home. The request for a hearing must be postmarked within 15 calendar days after the date of notice of the Department's decision to deny the appellant's application for a foster home license. The request must be submitted to the Department staff person designated in the written notice.
- b) If the appellant is unable to request an appeal in writing, the Department or provider agency shall help the appellant put the request in writing upon request.

**Section 338.90 Internal Review  
EMERGENCY**

- a) After the Administrative Hearings Unit has received the appellant's request for an appeal, the Administrator of the Administrative Hearings Unit shall notify the Department that the appellant has appealed and the Department shall send to the Administrator a copy of the notice of denial of the application for a foster family home license. The notice of denial shall be prima facie evidence that the Department had a basis for refusing to license the home.
- b) The Administrator shall ask both the Department and the appellant to submit any documents, records, statements, or other materials pertinent to the Department's denial of the application for licensure to create an appeal file. The Administrator shall further advise the Department and the appellant of the intent to examine the appeal file, including all materials submitted for the appeal file, to determine whether a genuine issue of material fact exists. Within fifteen days after the date of the Administrator's request for materials, both the Department representative and the appellant shall submit to the Administrative Hearings Unit and to the opposing party any and all

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documents, records, statements, materials, or evidence to establish that the Department's decision to deny the license was either correct or incorrect. Fifteen days after the Administrator's request for materials, the Administrator shall then proceed to complete the internal review based on the materials received.

- c) The Administrator shall examine the entire appeal file, including all materials submitted by both parties, and shall determine if a genuine issue of material fact exists.
- d) If the Administrator determines that no genuine issue of material fact exists, the Administrator shall dismiss the appeal. The letter dismissing the appeal shall be the final administrative decision of the Department.
- e) If the Administrator determines that there is no genuine issue of material fact as to one or more of the major issues in the case but that substantial controversy exists with respect to other major issues, the Administrator shall specify in writing the major issue(s) about which there is no dispute. The Administrator shall direct that a hearing be held only on the contested issues. At the hearing, facts specified by the Administrator as without dispute shall be deemed established and the hearing conducted accordingly. The Administrator shall notify the parties of the matters which may be appealed.
- f) If the Administrator determines that all the issues are contested, the Administrator shall direct that a hearing be held and notify the parties of the decision.

## Section 338.100 The Administrative Hearing

## EMERGENCY

- a) The Administrator of the Administrative Hearings Unit may grant a request for a hearing only when:
  - 1) the original written request for appeal was postmarked within 15 calendar days after the date of notice to the appellant that the Department has denied the appellant's application for a foster family home license; and
  - 2) the issue is within the jurisdiction of the Administrative Hearings Unit as set forth in Sections 338.30 and 338.40 of this Part.
- b) The Administrator of the Administrative Hearings Unit may dismiss a request for an administrative hearing for the following reasons only:
  - 1) the Administrator has determined that no genuine issue of material fact exists pursuant to Section 338.90;
  - 2) the appeal has been withdrawn in writing;
  - 3) the appeal has been abandoned. Abandonment shall be deemed to have occurred if the appellant, the appellant's authorized representative, or an individual legally authorized to act on behalf of the appellant fails to appear at the hearing, and the appellant does not have an adequate cause for failing to appear. Adequate cause for failing to appear at an administrative hearing

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may include, but is not limited to:

- A) death in the family of the appellant or in the family of the appellant's representative;
- B) serious illness of the appellant or the appellant's representative or serious illness in either person's immediate family;
- C) transportation difficulties that make it impossible for the appellant or representative to appear at the hearing;
- D) failure of the Department to give notice of the hearing to the appellant or representative at the last known address available to the Department. However, it is the appellant's responsibility to keep the Department updated on any change of address;
- 4) the issue is not within the jurisdiction of the Administrative Hearings Unit as set forth in Sections 338.30 and 338.40 of this Part;
- 5) the request for the appeal was not postmarked within 15 calendar days after the date of the notice that the application for license was denied; or
- 6) the appellant failed to notify the Administrator of the Administrative Hearings Unit of a change of address, and a notice of the administrative hearing cannot be delivered.
- c) If the appeal is not dismissed, the appeal shall be scheduled for hearing.
- d) The Department shall provide written notice of the decision to grant or deny the request for an administrative hearing within 20 calendar days after receipt of the request for an administrative hearing. If the Administrator of the Administrative Hearings Unit finds that the issue is not appealable under this Part but can be appropriately heard through another appeal process, in accordance with 89 Ill. Adm. Code 435, Administrative Appeals and Hearings, the Department shall forward the appeal to the proper hearing authority and notify the appellant of this action.
- e) The Administrator of the Administrative Hearing Unit shall:
  - 1) schedule the hearing at a date within a reasonable time period after the Administrator determines a genuine issue of material fact exists;
  - 2) ensure that the administrative hearing is scheduled at a time and place reasonably convenient for all parties. If the parties cannot agree to a reasonably convenient time and place, the administrator shall make this determination and proceed to schedule the hearing; and
  - 3) provide a written notice to the appellant at least 15 calendar days before the scheduled hearing, which shall contain the following information:
    - A) the date, time and location of the hearing;
    - B) a statement that the appellant or appellant's representative's failure to appear at the hearing without



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adequate cause may be deemed an abandonment of the request, thus constituting a waiver by the appellant of the right to a hearing; and

C) a statement of the parties' rights during the appeal process.

### Section 338.110 Rights and Responsibilities in Administrative Hearings EMERGENCY

- a) An appellant may bring a representative, including legal counsel, to the hearing. Expenses of a representative or of an appellant's witnesses shall be paid by the appellant.
- b) An appellant may request the Department employee who had direct involvement in the case or other persons who may have information relevant to the issues in dispute to attend the hearing by asking the administrator of the appeal hearing system to issue appropriate subpoenas. Witness fees and travel expenses for persons other than Department employees are the responsibility of the party requesting the subpoena.
- c) Any motions from the appellant or the Department shall be filed with the administrative law judge at least ten calendar days before the hearing. Copies shall be sent to the Department's representative and the appellant.
- d) At the appellant's request, the Department shall provide an interpreter at no cost to the appellant if English is not the appellant's primary language or a sign interpreter if the appellant is hearing impaired.
- e) During the administrative hearing, the appellant and the Department have the right to:
  - 1) present and question witnesses;
  - 2) present any information relevant to the issues;
  - 3) question or disprove any information, including an opportunity to question opposing witnesses; and
  - 4) dispose of any disputed issue by mutually agreeing to a resolution any time prior to the conclusion of the administrative hearing.
- f) In an administrative hearing, the appellant bears the burden of proving, by a preponderance of the evidence, that the Department was in error when it denied the appellant's application for a foster family home license.

### Section 338.120 Rules of Evidence EMERGENCY

- a) All evidence helpful in determining these questions, including oral and written reports, may be relied upon to the extent of its probative value, even though not competent under the common law or statutory rules of evidence.

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- b) All Department licensing records and investigatory files shall be admissible to prove the matters contained within the record or investigatory file.

### Section 338.130 The Administrative Law Judge EMERGENCY

- a) Appointment of the Administrative Law Judge  
The Administrator of the Administrative Hearings Unit shall select and the Director shall appoint a trained, impartial administrative law judge from the available pool to conduct the appeal hearing. The administrative law judge shall:
  - 1) possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law, including familiarity with Department rules, procedures and functions;
  - 2) not have been involved in the decision to take the action being appealed or have rendered legal advice to the decision maker on the issue; and
  - 3) not have a personal or professional interest that interferes with exercising objectivity or have any bias against the parties or issues appealed. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.
- b) Functions of the Administrative Law Judge  
The administrative law judge shall have all authority allowed under the Illinois Administrative Procedure Act [5 ILCS 100]. This authority shall include, but is not limited to, the following:
  - 1) conduct a fair, impartial and formal hearing in which the strict rules of evidence do not apply;
  - 2) provide for the recording of the hearing;
  - 3) inform participants of their individual rights and their responsibilities;
  - 4) conduct preliminary and pre-hearing telephone conferences, if necessary, between the parties and/or their attorneys to provide information about the procedural aspects of the hearing, narrow the issues and discuss possible stipulations and contested points of law, in order to expedite the actual hearing;
  - 5) take necessary steps to develop a full and fair record which contains all relevant facts;
  - 6) administer an oath or an affirmation to all witnesses;
  - 7) quash or modify subpoenas for good cause, including but not limited to, relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;
  - 8) preserve all documents and evidence for the record;
  - 9) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;
  - 10) order the removal of any person from the hearing room who is

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY RULES

creating a disturbance whether by physical actions, profanity or otherwise engaging in conduct which disrupts the hearing;

- 11) identify the issues, consider all relevant facts and receive or request any additional information necessary to decide the matter in dispute, including but not limited to, the submission of briefs, memoranda of law, affidavits or post hearing briefs; and
- 12) present a written opinion and recommendation to the Director within 30 calendar days after the record of the administrative hearing is completed or transcript is received. This report shall include a recommended decision on whether the Department's decision to deny the appellant's application for a foster home license was correct or incorrect based on information considered at the hearing contained in the administrative record. The opinion shall contain findings of fact, conclusions of law and a recommendation.

**Section 338.140 Combined or Separate Hearings****EMERGENCY**

- a) When a common issue is raised, the Department may respond to requests for hearings from more than one appellant by conducting a single group hearing. The Department may also combine all issues raised by a single appellant in all pending appeals arising under this or any other Department rule in a single hearing. In all group hearings, the appeal system in this Part shall apply. Individuals shall be permitted to present their own cases separately.
- b) The Department, if required for the fair, efficient administration of the hearing or to prevent possible prejudice to the appellant, may sever any party or any issue from the combined hearing. The severed party or issue shall be heard separately.

**Section 338.150 Final Administrative Decision****EMERGENCY**

- a) Making the Final Administrative Decision  
The Director of the Department shall receive the recommended decision from the administrative law judge and shall agree, disagree, or modify the recommended decision based upon the preponderance of the evidence. The Director's decision is the final administrative decision of the Department. If the decision requires corrective action by the Department, the Director shall appoint a Department staff person who shall be responsible for assuring compliance with the decision.
- b) Notice of the Availability of Judicial Review  
The Department shall include a notice to appellants as part of the final administrative decision. This notice shall advise the appellants that, under the provisions of Article III of the Administrative Review Law [735 ILCS 5/Art. III], they may seek within the statutory time frame judicial review of the Department's decision

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY RULES

- c) if it is unfavorable to them.  
Who Receives Copies of the Final Administrative Decision  
The appellant or authorized representative, the Department's Licensing unit, the Department's representative, the administrative law judge (except for notices of internal review decisions), and the Administrator of the Administrative Hearings Unit shall receive a copy of the final administrative decision.

**Section 338.160 Records of Administrative Hearings****EMERGENCY**

The permanent record of the administrative hearing and the final administrative decision shall be maintained by the Administrator of the Administrative Hearings Unit. All hearing decisions shall be available for public inspection during regular business hours. However, confidential information shall be deleted in conformance with 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department, and State and federal laws and rules and regulations on confidentiality.

**Section 338.170 Severability of This Part****EMERGENCY**

If any Court of competent jurisdiction finds that any Section, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

**Section 338.180 Transition Provisions****EMERGENCY**

## a) Definitions

"Approved under 89 Ill. Adm. Code 335, Relative Home Placement" means that a relative family home had been approved as meeting the standards of that Part prior to July 1, 1995.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Public Aid in 89 Ill. Adm. Code 111, Assistance Standards.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Timely application for licensure" means a relative caregiver whose home had been approved under 89 Ill. Adm. Code 335, Relative Home Placement, submitted an application for a foster family home license



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY RULES

postmarked no later than June 30, 1995.

- b) Relative Caregivers Not Approved Under 89 Ill. Adm. Code 335, Relative Home Placement  
Relative caregivers whose payments for the care of related children were reduced to the child only standard of need effective July 1, 1995, because the Department determined the relative home was not a licensed foster family home and had not been approved under 89 Ill. Adm. Code 335, Relative Home Placement, may appeal the proposed reduction of these payments, as notified in a letter from the Department to the appellant on June 12, 1995. Requests for a hearing under this subsection must have been postmarked on or before July 31, 1995, as stated in the letter from the Department to the appellant dated June 12, 1995, and submitted to the Bureau of Administrative Hearings, 160 N. LaSalle Street, Sixth Floor, Chicago, Illinois 60601 in order for the request to be accepted. The basis of the appeal must be that the relative caregiver:

- 1) was licensed as of July 1, 1995, under the provisions of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes. If a request for a hearing submitted under this paragraph was postmarked no later than June 30, 1995, foster care payments will be continued throughout the appeal process; or
- 2) had been approved under 89 Ill. Adm. Code 335, Relative Home Placement, and submitted an application for a foster family home license postmarked no later than June 30, 1995, which has not been denied. If a request for a hearing submitted under this paragraph was postmarked no later than June 30, 1995, foster care payments will be continued throughout the appeal process, until a decision is made on the application for license, or until September 30, 1995, whichever occurs first.

- c) Relative Caregivers Approved Under 89 Ill. Adm. Code 335, Relative Home Placement, Who Did Not Submit a Timely Application for Licensure  
Relative caregivers whose payments for the care of related children will be reduced to the child only standard of need effective July 1, 1995, because the Department has determined that they were approved under 89 Ill. Adm. Code 335, Relative Home Placement, but who, according to Department records, did not submit a timely application for a foster family home license, may appeal the proposed reduction of these payments as notified in a letter from the Department to the appellant on June 12, 1995. Requests for a hearing under this subsection must be postmarked on or before August 31, 1995 and submitted to the Bureau of Administrative Hearings, 160 N. LaSalle Street, Sixth Floor, Chicago, Illinois 60601 in order for the request for a hearing to be accepted. The basis of the appeal must be that the relative caregiver:

- 1) was licensed as of July 1, 1995 under the provisions of 89 Ill. Adm. Code 402. If a request for a hearing submitted under this paragraph was postmarked no later than June 30, 1995, foster care

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY RULES

- payments will be continued throughout the appeal process; or
- 2) had been approved under 89 Ill. Adm. Code 335, Relative Home Placement, and submitted a timely application for a foster family home license which has not been denied. If a request for hearing submitted under this paragraph is postmarked within ten days after the date of notice of the intended reduction of payments, foster care payments will be continued throughout the appeal process, until a decision is made on the application for licensure, or until September 30, 1995, whichever occurs first.

- d) Relative Caregivers Who Reside Out of State  
Relative caregivers whose payments for the care of related children will be reduced to the child only standard of need because they reside outside the State of Illinois and, according to Department records, failed to submit proof postmarked no later than July 15, 1995 to the Interstate Compact Unit, 406 East Monroe Street, Springfield, Illinois 62701 as required by Section 359.4, Payments for Substitute Care Services (89 Ill. Adm. Code 359, Authorized Child Care Payments) may appeal the proposed reduction of these payments. Requests for a hearing under this subsection must be postmarked within thirty days after the date of notice of the intended reduction of payments and submitted to the Bureau of Administrative Hearings, 160 N. LaSalle Street, Sixth Floor, Chicago, Illinois 60601 in order for a request for a hearing to be accepted. The basis of the appeal must be that the relative caregiver submitted proof of licensure, certification, or approval, as required by 89 Ill. Adm. Code 359.4. If a request for hearing submitted under this paragraph is postmarked within ten days after the date of notice of the intended reduction of payments, foster care payments will be continued throughout the appeal process.

- e) Recoupment of Overpayments  
If the Department continues the payment at the current level while the appeal is pending and the hearing upholds the Department's decision to reduce the payment, the Department shall fully recoup the amount of overpayments made. This may be achieved by reducing future payments made by the Department to the appellant or by other appropriate action against the appellant's income or resources, as provided in Section 402 of the Social Security Act (42 U.S.C.A. section 602(a)(22)). When an overpayment results from willful misstatements made by the appellant to the Department, or from the willful withholding of relevant information by the appellant from the Department, the Department may recoup the overpayment from any available income and resources as provided in 45 CFR section 233.20 (12).



## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Rights and Responsibilities

2) Code Citation: 89 Ill. Adm. Code 102

3) Section Number: Emergency Action:

102.21 New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, Ch. 23, par. 12-13) [305 ILCS 5/12-13] and P. L. 103-31.

5) Effective Date of Amendments: August 14, 1995

6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed in Agency's Principal Office: August 14, 1995

8) Reason for Emergency: The Department must implement the National Voter Registration Act effective, August 14, 1995, in order to comply with the Court Orders and Reports to the Court in *ACORN v. Edgar*, 95 C 174 in the U. S. District Court for the Northern District of Illinois.

9) Complete Description of the Subjects and Issues Involved: Pursuant to provisions of Public Law 130-31, these proposed amendments are necessary to implement procedures for voter registration. The National Voter Registration Act of 1993 requires the Department to make it easier for individuals to register to vote. Assistance must be provided in completing voter registration forms and in transmitting those completed forms to the appropriate election official.

As a result of these proposed amendments, the opportunity to register to vote will be given at each application for assistance and at each recertification of Food Stamp benefits. The opportunity to register to vote will be made to all clients, age 18 and over, who have signed the assistance application and who are present at the eligibility interview.

Department staff will not:

1. seek to influence an applicant's political preference or party registration;
2. display any political preference or party allegiance;
3. make any statement or take any action to discourage an applicant from registering to vote; or
4. make any statement or take any action to lead an applicant to believe

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

that a decision to register or not to register to vote will affect the availability of assistance.

This rulemaking establishes that Department staff will collect completed voter registration forms and forward the forms to the State election official no later than 10 days after the date of acceptance. In addition, the Department will keep confidential records of the number of persons choosing to complete a voter registration form and report those numbers to the State Board of Election.

10) Are there any Proposed Amendments pending to this Part? No

11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.

12) Information and questions regarding these Emergency Amendments shall be directed to:

Name: Judy Umunna

Address: Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762

Telephone: (217) 524-3215

The full text of the Emergency Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER a: GENERAL PROVISIONS

## PART 102

## RIGHTS AND RESPONSIBILITIES

## Section

102.1 Incorporation By Reference  
102.10 Rights of Clients  
102.20 Nondiscrimination  
102.21 Voter Registration

EMERGENCY

102.25 Grievance Rights of Clients  
102.30 Confidentiality of Case Information  
102.35 Case Records  
102.40 Freedom of Choice  
102.50 Reporting Change of Circumstances  
102.60 Referral Requirements  
102.63 Reporting Child Abuse/Neglect  
102.66 Suitability of Home  
102.70 Notice to Client  
102.80 Right to Appeal  
102.81 Continuation of Assistance Pending Appeal  
102.82 Time Limit for Filing an Appeal  
102.83 Examining Department Records  
102.84 Child Care  
102.90 Voluntary Repayment of Assistance  
102.100 Excess Assistance (Recodified)  
102.110 Recoupment of Overpayments (Recodified)  
102.120 Correction of Underpayments  
102.200 Recovery of Assistance  
102.210 Estate Claims  
102.220 Real Property Liens  
102.230 Filing and Renewal of Liens  
102.235 Liens on Property of Institutionalized Recipients  
102.240 Foreclosure of Liens  
102.250 Release of Liens  
102.260 Personal Injury Claims  
102.270 Convictions of Fraud - Eligibility  
102.280 Single Conviction of Fraud - Administrative Review Board

AUTHORITY: Implementing Article XI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. XI and 12-13].

SOURCE: Filed and effective December 31, 1977; peremptory rule at 2 Ill. Reg. 52, p. 449, effective December 13, 1978, amended at 2 Ill. Reg. 52, p. 462, December 23, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 39, effective

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

March 1, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979; amended at 5 Ill. Reg. 8035, effective July 27, 1981; amended at 5 Ill. Reg. 10775, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 7 Ill. Reg. 8350, effective July 1, 1983; amended at 8 Ill. Reg. 18910, effective September 26, 1984; amended at 9 Ill. Reg. 327, effective December 31, 1984; amended at 9 Ill. Reg. 3730, effective March 13, 1985; amended at 9 Ill. Reg. 6812, effective April 26, 1985; amended at 9 Ill. Reg. 7162, effective May 1, 1985; amended at 9 Ill. Reg. 13091, effective August 16, 1985; amended at 9 Ill. Reg. 14704, effective September 13, 1985; amended at 9 Ill. Reg. 15912, effective October 4, 1985; amended at 10 Ill. Reg. 3981, effective February 22, 1986; amended at 10 Ill. Reg. 14795, effective August 29, 1986; amended at 10 Ill. Reg. 19088, effective October 24, 1986; Sections 102.100 and 102.110 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; amended at 11 Ill. Reg. 14067, effective August 10, 1987; amended at 11 Ill. Reg. 18239, effective October 30, 1987; amended at 12 Ill. Reg. 3735, effective February 5, 1988; amended at 13 Ill. Reg. 3940, effective March 10, 1989; amended at 14 Ill. Reg. 13279, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 20078, effective December 3, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 7202, effective April 30, 1991; amended at 18 Ill. Reg. 273, effective December 28, 1993; amended at 18 Ill. Reg. 8938, effective June 3, 1994; amended at 19 Ill. Reg. 1108, effective January 26, 1995; emergency amendment at 19 Ill. Reg. 12320, effective August 14, 1995, for a maximum of 150 days.

Section 102.21 Voter RegistrationEMERGENCY

- a) As mandated by the National Voter Registration Act of 1993, Public Law 103-31, Department staff are required to allow clients the opportunity to register to vote and to assist clients in completing voter registration forms. The opportunity to register to vote shall be for federal elections only.
- b) An application for assistance is a signed request for AFDC, Food Stamps or Medicaid benefits. The opportunity to register to vote shall be given at each application for assistance and at each recertification of Food Stamp benefits.
- c) The opportunity to register to vote shall be made to all clients, age 18 and over, who have signed the application for AFDC, Food Stamps, Transitional Assistance, Child and Family Assistance or Medicaid benefits and who are present at the eligibility interview.
- d) The Department shall allow each member of the household over the age of 18 years who must sign the application for public assistance and is present for the eligibility interview the opportunity to register to vote. They may decline.
- e) Department staff shall provide the same degree of assistance to each applicant in completing the voter registration form as provided by the Agency with regard to the completion of its own forms, unless the

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

f) applicant refuses such assistance.

Department staff shall not:

- 1) seek to influence an applicant's political preference or party registration;
- 2) display any political preference or party allegiance;
- 3) make any statement or take any action to discourage an applicant from registering to vote; or
- 4) make any statement or take any action to lead an applicant to believe that a decision to register or not to register will affect the availability of assistance.

g) Department staff shall collect completed voter registration forms and forward the forms to the State election official no later than 10 days after the date of acceptance. Any voter registration form accepted by the Department within five days before the last day of registration for an election shall be transmitted no later than five days after the date of acceptance.

h) The Department shall keep confidential records of the number of persons choosing to complete a voter registration form. The Department shall report those numbers to the State Board of Elections.

(Source: Emergency amendment at 19 Ill. Reg. 12320, effective August 14, 1995, for a maximum of 150 days)

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: Optometric Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1320

3) Section Numbers: Proposed Action:

1320.50 Amendment  
1320.80 Amendment

4) Date Notice of Proposed Amendments Published in the Illinois Register:

July 7, 1995 19 Ill. Reg. 8923

5) Reason for the Withdrawal

Legislation signed by the Governor after these amendments were proposed will necessitate further changes to the rules for the Optometric Practice Act of 1987. Changes proposed for these Sections will be incorporated into the newly required rulemaking.



## DEPARTMENT OF LABOR

## NOTICE OF PUBLIC INFORMATION

LIST OF CONTRACTORS PROHIBITED FROM AN AWARD  
OF A CONTRACT OR A SUBCONTRACT  
FOR PUBLIC WORKS PROJECTS

Pursuant to Section 11a of the Prevailing Wage Act, 820 ILCS 130/0.01-12 (1994), the Director of the Department of Labor gives notice that the following contractors have been found to have disregarded their obligations to employees under the Prevailing Wage Act on two (2) separate occasions and are prohibited from being awarded any contract or subcontract for a public works project for two (2) years from the date of this publication:

1. Schwanke, Schwanke & Associates  
P.O. Box 1204  
LaSalle, Illinois 61301

and for a two year period ending on May 1, 1997:

1. Allendorfer Roofing Company  
4617-23 North Pulaski Road  
Chicago, Illinois 60637

Copies of the Prevailing Wage Act are available at the:

Illinois Department of Labor  
Conciliation and Mediation Division  
1 West Old State Capitol Plaza, Room 300  
Springfield, Illinois 62701-1217

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 8, 1995 through August 14, 1995, and have been scheduled for review by the Committee at its September 12, 1995 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
9/27/95	Board of Examiners, Certificate of Certified Public Accountant (23 Ill Adm Code 1400)	6/30/95 19 Ill Reg 8572	9/12/95
9/27/95	Department of Public Aid, Medical Assistance Programs (89 Ill Adm Code 120)	5/19/95 19 Ill Reg 6770	9/12/95
9/27/95	Illinois Racing Board, Place Pick (n) Pools (11 Ill Adm Code 312)	6/30/95 19 Ill Reg 8553	9/12/95
9/27/95	Illinois Racing Board, Identification of Horses (11 Ill Adm Code 1307)	6/30/95 19 Ill Reg 8540	9/12/95
9/27/95	Illinois Racing Board, Medication (11 Ill Adm Code 509)	6/30/95 19 Ill Reg 8546	9/12/95
9/27/95	Illinois Racing Board, Interstate Common Pools (11 Ill Adm Code 302)	6/30/95 19 Ill Reg 8542	9/12/95
9/27/95	Illinois Racing Board, Claiming Races (11 Ill Adm Code 510)	6/30/95 19 Ill Reg 8536	9/12/95



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**GEORGE H. RYAN**  
**SECRETARY OF STATE**

**Address:**

**Index Department  
111 E. Monroe  
Springfield, IL 62756**







